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1 NEW JERSEY DIVISION OF CIVIL RIGHTS

2 CIVIL UNION REVIEW COMMISSION

3 * * * *

4 Wednesday, November 5, 2008

5 Trenton, New Jersey

6

7 BOARD MEMBERS PRESENT:

8 J. FRANK VESPA-PAPALEO, Chairman

9 REV. CHARLES BLUSTEIN-ORTMAN, Co-Chairman

10 REV. KEVIN E. TAYLOR, Co-Chairman

11 STEVEN GOLDSTEIN, Vice Chairman

12 STEPHEN HYLAND, ESQUIRE, Secretary

13 ANNLYNNE BENSON

14 BARBRA CASBAR-SIPERSTEIN

15 JOE KOMOSINSKI

16 ERIN O'LEARY, ESQUIRE

17 MELISSA H. RAKSA, ESQUIRE

18 BARBARA ALLEN, ESQUIRE, By Phone

19

20 ALSO PRESENT:

21 BENN MEISTRICH, Commission Liaison

22 ESTHER NEVAREZ, Commission Liaison

23 ESTELLE BRONSTEIN, Staff Attorney

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1 HELD AT:

2 140 East Front Street, 6th Floor

3 Trenton, New Jersey

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5 REPORTED BY:

6 Molly Hallinan, Shorthand Reporter

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1 (Whereupon, the proceedings commenced at

2 approximately 1:05 p.m.)

3 CO-CHAIRMAN BLUSTEIN-ORTMAN: Shall we call

4 ourselves to order?

5 Esther, if you could read the statement

6 regarding adequate notice of meeting, please?

7 MS. NEVAREZ: Excuse me, Chairperson, would

8 you mind adding Ms. Stahl to the list of witnesses?

9 CO-CHAIRMAN BLUSTEIN-ORTMAN: I would not

10 mind.

11 MS. NEVAREZ: Stahl, S-T-A-H-L.

12 In compliance with Chapter 231 of the Public

13 Laws of 1975, notice of this meeting was given by way of

14 annual notice filed with the Secretary of State, The

15 Press of Atlantic City, Camden-Courier Post, The Jersey

16 Journal, The Trenton Times, Asbury Park Press, The

17 Record, and the Star-Ledger.

18 Call to order; Barbara Allen?

19 (No response.)

20 MS. NEVAREZ: AnneLynne Benson?

21 MS. BENSON: Present.

22 MS. NEVAREZ: Charles Blustein-Ortman?

23 CO-CHAIRMAN BLUSTEIN-ORTMAN: Present.

24 MS. NEVAREZ: Robert Bresenhan?

25 (No response.)

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1 MS. NEVAREZ: Barbra Casbar-Siperstein?

2 MS. CASBAR-SIPERSTEIN: Present.

3 MS. NEVAREZ: Steven Goldstein?

4 MR. GOLDSTEIN: Hi.

5 MS. NEVAREZ: Joe Komosinski?

6 MR. KOMOSINSKI: Present.

7 MS. NEVAREZ: Stephen Hyland?

8 MR. HYLAND: Present.

9 MS. NEVAREZ: Erin O'Leary?

10 MS. O'LEARY: Present.

11 MS. NEVAREZ: Melissa Raksa?

12 MS. RAKSA: Here.

13 MS. NEVAREZ: Linda Schwimmer?

14 (No response.)

15 MS. NEVAREZ: Kevin Taylor?

16 CO-CHAIRMAN TAYLOR: Amen.

17 MS. NEVAREZ: Frank Vespa-Papaleo?

18 CHAIRMAN VESPA-PAPALEO: Here.

19 MS. NEVAREZ: Thank you.

20 CO-CHAIRMAN BLUSTEIN-ORTMAN: Thank you,

21 Esther.

22 I invite you all to join in together with

23 the Pledge of Allegiance.

24 (Whereupon, the Pledge of Allegiance was

25 said.)

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1 Before we do the minutes, I would just like

2 to go over an overview, so our guests have a sense of

3 how things are going to be proceeding.

4 We have -- we're going to be approving our

5 minutes. Then we're going to do some Commissioner

6 Reports, if there are any. Then there will be a motion

7 to accept testimony that has been sent to the

8 Commission. Then we will be opening this meeting to

9 public testimony, and a number of people are on the

10 schedule for that. As time issues deal with themselves,

11 we will then be opening testimony to anyone else who

12 might be here to testify.

13 Moving onto a motion to approve the minutes?

14 MR. HYLAND: So move.

15 MS. CASBAR-SIPERSTEIN: Second.

16 CO-CHAIRMAN BLUSTEIN-ORTMAN: All those in

17 favor?

18 (All say I.)

19 CO-CHAIRMAN BLUSTEIN-ORTMAN: Opposed?

20 (No response.)

21 CO-CHAIRMAN BLUSTEIN-ORTMAN: The minutes
22 are accepted.

23 While I'm chairing this meeting, I turn to
24 Frank for the Chair's Report.

25 CHAIRMAN VESPA-PAPALEO: Thank you.
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1 I just have one thing to report, and that is
2 my update on the civil union -- on the verified
3 complaints that the Division of Civil Rights has
4 received to date. It's in your folder, it's the pink
5 sheet of paper.

6 We have currently five open cases, three
7 others were previously resolved. That's essentially the
8 report.

9 Any questions?

10 (No response.)

11 CHAIRMAN VESPA-PAPALEO: Those are the eight
12 cases we've had to date that have been at least filed as
13 verified complaints with the Division that are currently
14 under investigation. Five are currently under
15 investigation, three are closed.

16 That's it for the Division's Report.

17 CO-CHAIRMAN BLUSTEIN-ORTMAN: Great, thank
18 you.

19 Why don't we just stay with reports right
20 now? Do any other Commissioners have reports that they
21 would like to offer?

22 Joe?

23 MR. KOMOSINSKI: It's a report on the number
24 of civil unions and domestic partnerships entered to
25 date, a cumulative total since enactment of the Law.

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1 There are 2,116 female/female couples; 1,158
2 male/male couples; for a total of 3,274 civil union
3 couples. There have been to date 62 reaffirmations of
4 civil union. Since the Domestic Partnership Act was
5 instituted, there have been 5,034 domestic partnerships
6 registered, and only a total of 50 since civil union
7 went into effect.

8 CO-CHAIRMAN BLUSTEIN-ORTMAN: Questions for
9 Joe?

10 MS. RAKSA: Did the number change from the
11 last report that you gave, as far as DPs for couples 62
12 and older?

13 MR. KOMOSINSKI: It did change for DPs. One
14 of the things that we referenced before was
15 reaffirmations, 62 DPs actually at this point, 50 since
16 the Civil Union Act.

17 MS. RAKSA: So it's decreased?

18 MR. KOMOSINSKI: No, it increased.

19 Before the last month, we talked about --

20 the reaffirmation number that we talked about was 62,

21 but that got swapped with domestic partnerships and

22 mistakes.

23 Domestic partnerships, actually, I believe,

24 last month were -- last month there were 46 domestic

25 partnerships to date, so this month there are 50 to

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1 date.

2 MS. RAKSA: Okay.

3 CO-CHAIRMAN BLUSTEIN-ORTMAN: Thank you,

4 Joe.

5 Do any other Commissioners have reports?

6 (No response.)

7 Do we have a motion to accept the updated

8 testimony binder?

9 MS. O'LEARY: So moved.

10 MR. HYLAND: Second.

11 CO-CHAIRMAN BLUSTEIN-ORTMAN: Discussion?

12 (No response.)

13 CO-CHAIRMAN BLUSTEIN-ORTMAN: All those in

14 favor?

15 (All say I.)

16 CO-CHAIRMAN BLUSTEIN-ORTMAN: Opposed?

17 (No response.)

18 CO-CHAIRMAN BLUSTEIN-ORTMAN: Excellent, so
19 we can move onto testimony.

20 We would ask that the Director of the
21 Division of Taxation, Maureen Adams, join us here, if
22 you would.

23 Thank you for being with us, welcome.

24 MS. ADAMS: Thank you, I'm glad to be here.
25 Do you want me to sign-in or anything?

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1 CO-CHAIRMAN BLUSTEIN-ORTMAN: For other
2 people testifying, we're going to ask that you spell
3 your name, but we have Maureen's name, and Adams is
4 fairly easily spelled.

5 MS. ADAMS: Mr. Vespa-Papaleo had asked me
6 last week if I might come and discuss with you folks
7 some of the issues that we have encountered from a tax
8 perspective since the Law was enacted. He also asked if
9 there were some statistics as it relates to filings of
10 income tax returns and the light that I might be able to
11 share with you.

12 There are some really good things that I can
13 say. We have had a very smooth transition with very,
14 very few problems since the Law was enacted.

15 There has been one piece of litigation. The

16 case was last year, shortly after the Law was -- became
17 effective. It was Corto versus Adams, and it was a case
18 filed -- a compliant filed by a couple who had been
19 married in Canada in 2003 who wanted the opportunity to
20 file jointly their gross income tax return for the 2006
21 tax year.

22 I denied that request based upon my reading
23 of the Attorney General's formal opinion that, in
24 effect, advised state agencies to recognize civil
25 unions, marriages, domestic partnerships that had been
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1 entered in other states or countries as of the effective
2 date of this statute, which you know is February 19,
3 2007.

4 The tax year -- in order to file a joint
5 income tax return, you have to be a member of the filing
6 status that you're going to use as of the last day of
7 the calendar year that you're filing for.

8 In the case of Corto, that would have
9 required -- that meant that in order to file a 2006
10 gross income tax you would, by the end of 2006, have to
11 have been married to be able to file a joint return.

12 The Attorney General's opinion was to the
13 effect that the recognition of these kinds of
14 relationships in New Jersey is effective as of the date

15 of -- of the effective date of the Bill.

16 I denied it, saying, "Look, you can do it
17 next year. Next year you can come back and file your
18 2007 taxes as filing jointly as a CU couple."

19 There was a challenge to that decision to
20 the Appellate Division, and the Appellate Division
21 upheld the administrative determination of the Division
22 of Taxation. There was no further appeal of that case
23 to the New Jersey Supreme Court. That is the only
24 hiccup that we have had in implementing the Law.

25 We have modified the requirements in our
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1 regulations and instructions and bulletins to taxpayers
2 as it relates to the realty transfer tax.

3 There are now exemptions -- there are two
4 exemptions in the realty transfer tax. There are
5 exemptions to the tax for the transfer between a husband
6 and a wife, a wife and a husband, and an ex-wife to an
7 ex-husband. Those exemptions now apply to civil union
8 couples.

9 We have modified our definitions in the
10 inheritance and estate tax statutes, so everywhere
11 there's a reference to married, it's now married/civil
12 union.

13 We have done the same thing in our

14 instructions to our 1040 gross income tax returns.

15 The way that we've done it is very simple.

16 We have taken the check-off box on a gross income tax

17 return, where you can check-off that you're filing

18 singly, filing as a head of household, or filing

19 married/CU filing jointly or married/CU filing

20 separately. Because we have used that approach, I'm not

21 able to let you know how many civil union couples have

22 filed 1040s for the 2007 tax year, because I can't tease

23 that out.

24 We have, of the 4.3 million gross income tax

25 returns that were filed for the 2007 tax year,

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1 approximately 1.7 million were filed as married/CU

2 filing jointly. The only way that we would be able to

3 identify a number of filers who were CU filers would be

4 to do a match of -- our identifier in our system is

5 social security numbers.

6 I did look at the CU licensing application

7 and see that, in fact, applicants are required to

8 include their social security number, but I also did

9 read in the Law that the social security number is

10 disclosable only for purposes of child support. Unless

11 every CU applicant authorized the Department of Health

12 to release its -- to the Division of Taxation, we

13 wouldn't be able to do a match.

14 I really can't tell you how many of the 1.68

15 million joint return filers were CU folks.

16 We have had to make a couple of changes to

17 our processing in order to accommodate the fact that the

18 feds do not permit same-sex filings. That becomes an

19 issue in the income tax -- under the income tax statute

20 in the earned income tax credit, because under the New

21 Jersey earned income tax credit statute, a state filer

22 is entitled to a state EITC.

23 If that person is entitled to a federal

24 EITC, what we have done is instructed folks to fill out

25 a federal EITC worksheet as though they were able to

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1 file federally and take those calculations and apply

2 them and include them in their state filing, so that we

3 can assure folks who are entitled -- CU couples who are

4 entitled to EITC credit that they do receive the credit.

5 We have seen an increase for the 2007 tax

6 year in the number of EITC filers, it is up about 10,000

7 filers from the year before. But again, I can't tease

8 out how many of those filers could be CU.

9 And in addition to that, the universe of

10 folks entitled to file for EITC was expanded this year.

11 The increase could account for the fact that the

12 population eligible to file, filed, so I can't give you
13 that.

14 There are several property tax relief
15 programs that have been affected by the CU Law. Again,
16 we have responded to the Law by just making sure that
17 the applicants now can check-off a box that says that
18 they're a CU filer.

19 Of the several property tax relief programs,
20 three of them are at the local level, and those are
21 program benefits that an applicant would file for with a
22 local assessor.

23 There's a Senior Citizen Deduction of \$250
24 against local property tax liability. By including the
25 CUs in folks who are entitled to seek the Senior Citizen
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1 Deduction benefit, now surviving spouses or surviving CU
2 partners can get a benefit that they couldn't get prior
3 to the Law.

4 The same thing applies with Veterans
5 Deductions. There is a \$250 Veterans Deduction that is
6 available at the local level, provided of course that
7 you meet the eligibility criteria. But, again, the
8 Veterans Deduction is extended to a surviving spouse, so
9 now with the CU Law it is extended to surviving CU
10 partners. That's a benefit, again, that didn't exist

11 for surviving CU partners until the Law was changed.

12 With both the Senior Citizen Deduction and
13 the Veterans Deduction, we've seen an increase in the
14 amount of filings over the past few years.

15 With the Veterans Deductions, the decrease
16 is attributed to the fact that World War II vets are
17 passing. We haven't yet seen the program expanded to
18 those of the Iraq War, because you have to be honorably
19 discharged.

20 It's the same thing with seniors. There's
21 an income limitation on the Senior Property Tax
22 Deduction of \$10,000, so -- which is not a lot of money.
23 That income limit hasn't been changed in about 25 years,
24 which is why we suspect that the number of folks who are
25 eligible for the Senior Citizen Deduction is decreasing.

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1 There is also, at the local level, a
2 Disabled Veterans Property Tax Exemption. It's a total
3 exemption for vets who are 100 percent permanently and
4 totally disabled with proof from the Veterans Affairs --
5 Veterans Administration. The Veterans Exemption is
6 available to a surviving spouse, so now it is available
7 to a surviving senior partner.

8 The Homestead Rebate now, again, has been
9 extended to CU couples.

10 Now, this is something that I've been
11 thinking of for the last couple of days. I think that
12 the possibility exists that this may not benefit senior
13 couples, because the Homestead Property Tax Rebate has
14 certain eligibility criteria. One is that you own the
15 home, and you're a resident of New Jersey. Several
16 eligibility -- but the -- the one that I've been
17 thinking through is the income eligibility.

18 Now, you can apply for a Homestead Rebate if
19 you are one of multiple owners of a home. In that case,
20 you would get your proportionate share of whatever the
21 rebate is for that property, but you have to meet the
22 income limits.

23 Prior to this Law, if you had a same-sex
24 couple who owned a piece of property and were living in
25 the property and met all the eligibility criteria and

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1 each one was below the income eligibility limit, then
2 each one would file an application and receive a
3 proportionate share of the benefit.

4 Now, a CU couple would be filing jointly for
5 a Homestead Rebate and would have to meet -- and the
6 income of both members of the couple would be combined
7 and potentially could result in throwing that couple
8 over the income limit.

9 The income limit changes every year. Last
10 year, for the 2006 year, it was \$250,000. For the 2007
11 Homestead Rebate, it was \$150,000. It's subject every
12 year to legislative modification, and I don't know how
13 frequently that happens. I asked my folks if we knew if
14 that happened, and because we don't make any
15 distinctions in filing status, we can't figure that out.

16 Finally, we have a property tax
17 reimbursement, which is also now extended to CU couples.
18 It could have been a benefit that was received by CU
19 couples before the Law was enacted, because it would
20 allow for seniors and disabled folks to receive a
21 reimbursement for the increase in property taxes from a
22 particular base year to a current year.

23 Again, like the Homestead Rebate, folks who
24 own property jointly could have had the benefit of what
25 we call Senior Freeze before the Law and also have it
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1 now.

2 And again, if, in fact, you've got the CU
3 couple who filing jointly exceed the income limits, then
4 they wouldn't qualify for the program.

5 I think I mentioned this; our inheritance
6 and estate tax and instructions and returns have been
7 modified to, again, permit the filing -- well, as a CU

8 survivor. Everything that applies to married folks in
9 the application of the inheritance or the estate tax
10 applies to CU partners.

11 And with that, I'll take any questions that
12 you might have.

13 MS. O'LEARY: Erin O'Leary speaking.

14 I have a question about your comment about
15 the Homestead Rebate, as well as another comment.

16 Presumably, if people choose not to enter
17 into a civil union, just as if people choose not to
18 enter into a marriage, then the detriment perhaps of the
19 combined income -- when I use the word penalty, I don't
20 know if that's loaded, but it wouldn't be there. It's
21 more of a matter of a reflection of the equitable
22 treatment as married couples versus otherwise --

23 MS. ADAMS: It's the same thing for a
24 heterosexual couple who buy a house planning to get
25 married the following year, they would be in the same

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1 situation.

2 Before they're married, they would each have
3 the opportunity to file an application for a Homestead
4 Rebate for their proportionate share, as long as they
5 meet all the income requirements, and they want to get,
6 married, and the total of their income they might exceed

7 the -- it's no different. It's absolutely the same.

8 But the possibility exists for anybody who
9 goes from a single filing status to a joint filing
10 status that they may -- once you combine incomes, they
11 may be beyond the limitations.

12 MR. HYLAND: Commissioner Hyland.

13 First of all, the issue of these
14 property-related or residential property-related
15 benefits and obligations for all same-sex couples.

16 Prior to the enactment of the Civil Union
17 Bill, they could only hold property as joint tenants or
18 tenants in common. Now, any property purchased by the
19 couple by default is tenants by the entirety.

20 Do any of those programs require that it be
21 held as tenants by the entirety? Because if they do, we
22 have a lot of couples out there who are going to have to
23 change titling of their property to be eligible for
24 these programs.

25 MS. ADAMS: Not at the state level.

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1 I'm thinking that in order to get the
2 surviving spouse -- no, no, no. I don't think so.

3 MR. HYLAND: It can be joint tenants, as
4 well as --

5 MS. ADAMS: It's not going to be the way the

6 deed reflects -- the CU surviving partner is treated
7 exactly as a surviving spouse by virtue of the law. If
8 -- I don't think that the manner in which the property
9 is held is significant.

10 MR. HYLAND: As long as there's some common
11 ownership in the titles?

12 MS. ADAMS: Absolutely.

13 MR. HYLAND: They would be eligible?

14 MS. ADAMS: Before the CU Law, folks would
15 look to what the deed says. It says, "Well, in order to
16 claim a surviving spouse benefit, you have to hold the
17 property as a tenant by the entirety. Well, you can't
18 hold a tenant by the entirety, because you're not."

19 But with the change in law, it doesn't
20 matter with the directive that any time a married person
21 has a benefit, that same benefit extends to the
22 surviving senior person.

23 MR. HYLAND: I have one more question.

24 In regard to the estate tax area, there were
25 some questions for a period of time as to whether the

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1 election of QTIP treatment for married couples was --
2 you had to elect it for both federal treatment and state
3 treatment.

4 I understand that there's been a change in

5 the policy that same-sex couples in a civil union could
6 elect QTIP treatment, even though they were not electing
7 it on that.

8 Effectively, you've decoupled the treatment
9 for federal purposes from the treatment for state
10 purposes. Why isn't -- is that not available for
11 married couples, that decoupling, you mean?

12 MS. ADAMS: Well, with the decoupling -- we
13 decoupled from the federal estate tax at the end of
14 2001.

15 MR. HYLAND: But the election of the QTIP
16 treatment is still --

17 MS. ADAMS: The election of the -- yeah,
18 that is.

19 If I understand this correctly, and believe
20 me, I am not an expert on the estate tax, but I had
21 discussions with my folks on it -- and I'll be glad to
22 take back any question that you have for further
23 analysis -- but I do believe that if there is -- the
24 decoupling does benefit a CU -- an estate of a CU couple
25 as it relates to the QTIP in a way that it wouldn't

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1 provide a benefit to married persons, because the QTIP
2 election isn't available to the estate at the federal
3 level.

4 MR. HYLAND: The decoupling issue has been a
5 raging controversy in the tax area, so why hasn't your
6 department taken a position that if we have to decouple
7 for same-sex couples who are in the civil union, then it
8 would be discriminatory against heterosexual married
9 couples, if they didn't decouple it now for that purpose
10 as well?

11 MS. ADAMS: Well, because the issue just,
12 actually, didn't come up to my attention until recently.
13 We will look at that, we're still struggling through a
14 lot of these changes.

15 The estate tax is -- it becomes so difficult
16 to administer, given our decoupling in 2001. What we
17 did -- our estate tax now looks to whatever the federal
18 estate tax was as of December 31, 2001. From that point
19 on, the federal tax has gone to the left and we have
20 gone to the right. It's become so much more difficult
21 to administer, because we keep getting farther away from
22 federal changes.

23 It did come up recently when they were
24 talking through this, and we have to take a look at
25 that. Potentially, it could be something that would be

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1 subject to legislative revision.

2 MR. HYLAND: But that's a regulatory issue,

3 I thought.

4 MS. ADAMS: Well, I'm not sure about that.

5 That's what I wanted to see, if regulatory review would

6 suffice or if it doesn't need legislative changes.

7 CHAIRMAN VESPA-PAPALEO: I have a question

8 regarding the two property tax relief programs, the

9 Veterans Deduction and the Disabled Vets Property

10 Exemption. To what extent are those impacted by the

11 federal Don't Ask, Don't Tell Law?

12 If a person is eligible for this, but they

13 are a veteran and now they're a registered civil union

14 partner, they may be violating the federal Don't Ask,

15 Don't Tell Policy as a retiree of the Military. They're

16 outing themselves by registering as a civil union

17 partner. Are they still eligible to participate in this

18 or do the feds require any verification of their status?

19 MS. ADAMS: No, you provide your honorable

20 discharge papers. That's for the Vets Deduction.

21 And for the Disabled Vets Exemption, you

22 provide your honorable discharge papers and your

23 certification of 100 percent permanent and total

24 disability from the Veterans Administration.

25 Those are filed with the local tax assessor.

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1 The Division of Taxation oversees it and we keep track

2 of it, because that \$250 that is a reduction on their
3 local property tax bill is reimbursed by the state to
4 the locals in what we call revenue sharing. It hasn't
5 been an issue. We have not had one issue at all.

6 MS. CASBAR-SIPERSTEIN: For perhaps gay
7 veterans that were discharged because they were gay
8 under Don't Ask, Don't Tell -- and I don't know the
9 answer. Were they all under honorable conditions?

10 MS. ADAMS: I have no idea.

11 MS. CASBAR-SIPERSTEIN: Could there have
12 been? Because --

13 MS. ADAMS: I know absolutely nothing about
14 the Military.

15 CHAIRMAN VESPA-PAPALEO: That's a
16 dishonorable discharge if you are discharged because of
17 your sexual orientation. It becomes a dishonorable
18 discharge.

19 MS. CASBAR-SIPERSTEIN: There's also the
20 general under honorable discharges and it may not have
21 been the complete honorable status because of that.

22 CHAIRMAN VESPA-PAPALEO: My understanding
23 that it is a violation of Federal Law and thereby it is
24 a dishonorable discharge.

25 MS. ADAMS: I don't know anything about

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1 that.

2 I know that the eligibility requirements for
3 these -- for the Veterans Property Tax Deduction is
4 honorable discharge.

5 MS. CASBAR-SIPERSTEIN: Would there be
6 built-in discrimination under State Law if this
7 discharge was because of that?

8 MS. ADAMS: I really wouldn't feel
9 comfortable --

10 CO-CHAIRMAN BLUSTEIN-ORTMAN: We have to
11 move the conversation on.

12 I think Melissa has a question.

13 MS. RAKSA: I have two questions.

14 The first is, if you're aware, Director,
15 whether or not there were any costs associated with your
16 Division as to the implementation of the Civil Union
17 Act?

18 MS. ADAMS: Well, there would be cost
19 associated with modifying the tax returns and the
20 programming costs associated with OIT modifications to
21 our system.

22 In terms of appreciable costs, none that I
23 can think of.

24 MS. RAKSA: My second question relates to
25 the Domestic Partnership Act. I don't know if you're

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1 prepared --

2 MS. ADAMS: I don't know too much about

3 that.

4 MS. RAKSA: Did you -- has the

5 implementation of the Civil Union Act in any way

6 impacted the Department -- the Division's handling of

7 domestic partners?

8 MS. ADAMS: Well, domestic partners comes up

9 in income tax filing, because a person -- domestic

10 partners -- a domestic partner may file an income tax

11 return and claim as an exemption the other partner, only

12 if that other partner does not have a filing obligation

13 to the State of New Jersey. That, unlike the civil

14 union, is a separate box that has to be checked.

15 And I can give you numbers on the domestic

16 partner filings since 2004. In 2004, there were 2,844

17 domestic partnership -- domestic partner exemptions

18 claimed. In 2005, 1,759; in 2006, 1,769; and for 2007,

19 the tax year that was just completed, 748.

20 MS. RAKSA: Just curious; do you have any

21 idea why the numbers seem to be falling, the number of

22 filings?

23 MS. ADAMS: Probably because folks are

24 moving to CU filing status. That's what I would guess.

25 CO-CHAIRMAN BLUSTEIN-ORTMAN: I have a
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1 question that I'd like to ask and that is, do you -- in
2 a word, do you have any impressions of how -- if the
3 state moved to marriage, that might affect any of the
4 things that you've just testified to as they relate to
5 civil union?

6 MS. ADAMS: I would say that there would be
7 -- no, because any changes, any fiscal impact, any
8 filing impact, has all been realized with the Civil
9 Union Law. There wouldn't be anything different that
10 the tax administrators do if you move this filing status
11 to eliminate civil union and call everybody married.
12 There won't be any more costs than those that have
13 already been incurred to date.

14 Except then, of course, we'll have to file
15 change of the income tax returns and take out the CU and
16 do the programming changes for that.

17 CO-CHAIRMAN BLUSTEIN-ORTMAN: Nobody's
18 filling that option in, I'm sure.

19 MS. ADAMS: There you go, that's it.

20 CO-CHAIRMAN BLUSTEIN-ORTMAN: Thank you very
21 much.

22 MS. ADAMS: You're quite welcome.

23 CO-CHAIRMAN BLUSTEIN-ORTMAN: We're going to

24 have a telephone call in at 2 o'clock, folks.

25 I would like to call Reverend Charles

0028

1 Stephens at this time, because I know that he has to

2 leave soon.

3 MS. O'LEARY: I know that Esther was trying

4 to get the call-in number, but it wasn't happening.

5 CO-CHAIRMAN BLUSTEIN-ORTMAN: We don't have

6 a call-in until 2 o'clock.

7 MS. O'LEARY: Barbara Allen is trying to

8 call in. I'll try it.

9 CO-CHAIRMAN BLUSTEIN-ORTMAN: Reverend

10 Stephens, welcome.

11 REV. STEPHENS: Thank you. S-T-E-P-H-E-N-S.

12 MS. O'LEARY: Before you begin, I'd like to

13 officially recuse myself from this portion of the

14 testimony.

15 CO-CHAIRMAN BLUSTEIN-ORTMAN: Because?

16 MS. O'LEARY: Because Reverend Stephens is

17 my reverend, so it's not appropriate.

18 CO-CHAIRMAN BLUSTEIN-ORTMAN: Why don't we

19 proceed while we're trying to get through on the

20 telephone?

21 MS. NEVAREZ: I'm sorry, one second. We're

22 trying to get Barbara Allen on the line. She's at home.

23 I've tried this number on another phone and it seems to
24 be working, but when I dial it from this number, it
25 doesn't seem to be working.

0029

1 CO-CHAIRMAN BLUSTEIN-ORTMAN: Can we proceed
2 with the testimony?

3 MS. NEVAREZ: If you don't mind that, I'm
4 going to be fiddling with this.

5 CO-CHAIRMAN BLUSTEIN-ORTMAN: Welcome.

6 REV. STEPHENS: Thank you for the work that
7 you're doing on the Commission.

8 I'm a minister at the Unitarian Universalist
9 Church in Washington Crossing in Titusville, New Jersey.
10 I'm beginning my 12th year at this congregation. I've
11 been a minister for the last 35 years.

12 My congregation, when I informed them that I
13 was doing same-sex weddings, met and had a
14 congregational meeting and unanimously at that meeting
15 voted to support my doing weddings for same-sex couples.
16 They appreciate what I'm doing. They want our
17 congregation to be known as a congregation that is open
18 to and endorsing same-sex weddings.

19 What I find for couples within my
20 congregation, same-sex couples, is it would incredibly
21 increase and strengthen the families of the young

22 children of same-sex couples to be able to refer to
23 their parents as married, as opposed to civil unionized
24 or whatever that might be. It's confusing for kids.
25 They see a wedding happening for their parents, and it's
0030

1 confusing for them. It implies that their parents and
2 their union -- their parents' union is something less
3 and is not as meaningful. If they try to talk about
4 that with their classmates or at school or a neighbor's
5 or in any way, it weakens the family, the strength of
6 the family.

7 It also, I think, implies that there's
8 something wrong with the religion that I'm a part of,
9 because it doesn't allow me to legally perform same-sex
10 weddings and call them marriages. I do the weddings and
11 we refer to that, but it's not recognized by the state
12 and the couples can't celebrate that.

13 I think really, for me, I see the impact on
14 the children of same-sex couples. Some of them have
15 been -- couples who have been together for 5 years, 10
16 years. We have same-sex couples in our congregation
17 that have been together for 40 years or more. The
18 strength of their family puts to shame many of the
19 heterosexual couples that would love to have a
20 relationship as strong and sturdy as they have.

21 My presence here is just to say that I urge
22 this Commission to consider moving it from civil unions
23 to marriage, because I see it as something that would
24 strengthen the families in my congregation, both the
25 heterosexual couples as well as the same-sex couples.

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1 CO-CHAIRMAN BLUSTEIN-ORTMAN: Do you imagine
2 any negative implications for the heterosexual couples
3 in your congregation?

4 REV. STEPHENS: Not at all.

5 The couples -- the heterosexual couples in
6 my congregation see that -- see it sort of as a tragedy
7 that the couples they respect and look up to as mentors
8 in relationships can't refer to themselves as a married
9 couple. Some of the elders of our congregation are in
10 same-sex marriages.

11 CO-CHAIRMAN BLUSTEIN-ORTMAN: Any questions
12 for Reverend Stephens?

13 (No response.)

14 REV. STEPHENS: Just to say to see the
15 children at a same-sex union wedding and the joy and the
16 excitement that they feel for their parents getting
17 married is just -- is just very moving for me and for
18 heterosexual couples that come to the weddings as well.

19 CO-CHAIRMAN BLUSTEIN-ORTMAN: Thank you,

20 Reverend Stephens.

21 REV. STEPHENS: Thank you for the work that
22 you're doing.

23 CO-CHAIRMAN BLUSTEIN-ORTMAN: At 2 o'clock
24 we have a call coming in.

25 Are Denise and Fran Brunner here now? Could

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1 you testify?

2 Welcome.

3 DENISE BRUNNER: Thank you, my name is
4 Denise Brunner.

5 FRAN BRUNNER: Fran Brunner.

6 DENISE BRUNNER: We're one of the few legal
7 same-sex marriages in the State of New Jersey. We have
8 three wonderful children, and we are in a very loving
9 relationship.

10 I'd like to address two points. One, that
11 the Reverend just touched on, which is the children.
12 And two, the limbo that we're in. Are we married? Are
13 we not married?

14 It really, really affects us as a couple,
15 because we really feel if we have to lose the marriage
16 and go to civil union, we're down-stepping. We're
17 becoming second class citizens, because we're becoming
18 something other than a married couple.

19 Just sitting here and listening to all the
20 testimony and you're all talking, it's very evident that
21 right here, civil unioned is not married, because the
22 Commissioner earlier was portraying people as CUed. Are
23 married people CUed? You know, I just don't think that
24 that's fair or equal.

25 Then there's also the children. We're

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1 fortunate our children can say and do say that we're
2 married. The other families don't have that luxury. I
3 think it really affects the children's psyche, because
4 they no longer belong to a married family and it makes
5 them feel incomplete.

6 I, personally, and I believe Fran will
7 agree, that civil union is not married. And this
8 Commission should absolutely, absolutely push to get
9 marriage.

10 FRAN BRUNNER: Even though the state has
11 anti-bullying campaigns, the children still get bullied
12 in the schools, get taunted by their classmates.

13 DENISE BRUNNER: We just had it recently
14 with our daughter. We brought it to the school's
15 attention that it existed, but it shouldn't. We don't
16 feel that we're second class citizens, we feel that
17 we're first class.

18 Thank you for the time.

19 CO-CHAIRMAN BLUSTEIN-ORTMAN: Are there any
20 questions?

21 MS. BENSON: Commissioner Benson.

22 Do you think that the situation with the
23 bullying would be a different experience for your
24 children in the school if their classmates could say,
25 unequivocally, that you were married?

0034

1 DENISE BRUNNER: I don't, at this stage.

2 The bullying didn't come from the marriage
3 portion of it, but it definitely, definitely leaves it
4 wide-open that somebody can say to our kids, "Your
5 parents are longer married. They're another group."

6 MS. CASBAR-SIPERSTEIN: So what you're
7 saying is the bullying is because of the other students'
8 perception that because you're the same-sex, it's not
9 quite the same?

10 DENISE BRUNNER: Absolutely. It isn't the
11 same, it isn't.

12 FRAN BRUNNER: If we have different names
13 for things, then -- the children are very smart. They
14 perceive it as different, it's something other.

15 DENISE BRUNNER: Absolutely. They make sure
16 that they make a point of it.

17 MR. HYLAND: Commissioner Hyland.

18 You were married in New Jersey?

19 DENISE BRUNNER: That's correct.

20 MR. HYLAND: You hold a valid New Jersey
21 marriage license?

22 DENISE BRUNNER: I have a 3-foot copy, if
23 you'd like to see it.

24 CO-CHAIRMAN BLUSTEIN-ORTMAN: I believe we
25 had the benefit of seeing that at an earlier time.

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1 DENISE BRUNNER: That's correct.

2 MR. HYLAND: But in essence, nobody has told
3 you otherwise than the fact that you're married?

4 DENISE BRUNNER: I don't want to wait until
5 that point.

6 MR. HYLAND: I understand.

7 What I'm saying is, you're legally married
8 right now in the State of New Jersey. The Attorney
9 General's opinion doesn't address the issue of whether
10 somebody is married in New Jersey, becomes a same-sex
11 couple after the fact, and then should be treated as a
12 civil union. Your status hasn't changed in any way?

13 DENISE BRUNNER: But who knows if there's a
14 change in administration or whatever and things are
15 different? In today's administration, I think I'm okay.

16 But in tomorrow's, it's a big question.

17 MR. HYLAND: Really, what the question comes
18 down to, is the question of recognition of a marriage
19 where there is a change of gender in one partner after
20 the marriage. Is that continued to be recognized as
21 married and not a civil union, at least in New Jersey?

22 We can't do anything as far as other states
23 are concerned. Is that something that the Attorney
24 General's Office --

25 MS. O'LEARY: I think there may be a case on
0036
1 that.

2 MR. HYLAND: I know there is a case that
3 addresses -- it was a same-sex couple who married after
4 one of them transitioned from male to female. It's an
5 old case. It's valid, but it only addresses the issue
6 of whether such a couple is then, in New Jersey Law,
7 considered to be married.

8 That actually invites the question of upon
9 going the other way, is a couple considered married or
10 in a civil union? So it would almost seem like there
11 needs to be some type of an opinion addressing that
12 issue.

13 MS. CASBAR-SIPERSTEIN: I think because of
14 the recent Attorney General's opinion, that perhaps the

15 Brunners or perhaps other couples in the same situation
16 feel that there's a cloud.

17 MR. HYLAND: There is a cloud.

18 DENISE BRUNNER: Absolutely.

19 MR. HYLAND: But there isn't anything in
20 that Attorney General's opinion that addresses a
21 question of a marriage legally entered into in New
22 Jersey under these circumstances. It only addresses the
23 issue of whether a couple has married -- a same-sex
24 couple has married in another state and the treatment of
25 that as a civil union in New Jersey.

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1 MS. CASBAR-SIPERSTEIN: Exactly.
2 I think some of the couples may be aware of
3 a situation in England where couples in their situation
4 that had been married over 20 years with children were
5 actually forced to divorce. And that's England, not the
6 United States, but it's there. There's the fact that
7 that's what happened.

8 MS. BENSON: So, what you're saying is that
9 ensuring your continued recognition of your status as a
10 married couple, rather than potentially having that
11 downgraded to civil union status, would have a positive
12 impact on your family, especially your children?

13 DENISE BRUNNER: Having it downgraded?

14 MS. BENSON: Ensuring your continued
15 recognition as a married couple.

16 DENISE BRUNNER: Absolutely.

17 MS. BENSON: It would have a positive impact
18 on your family?

19 DENISE BRUNNER: We're concerned.

20 Also, God forbid one of is in an accident.

21 Is there going to be a question of well, what are you?

22 Are you still a union? Are you married or are you

23 neither? Because it's such a cloud on our situation.

24 MR. HYLAND: Have you considered applying
25 for a reaffirmation of your marriage, which is allowable

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1 under New Jersey Law?

2 DENISE BRUNNER: No, we have not.

3 MR. HYLAND: It might at least give some
4 type of an answer as to whether it would be allowed to
5 be a reaffirmation of a marriage or whether it would be
6 deemed as a reaffirmation of a civil union.

7 MR. KOMOSINSKI: Let me just clarify, it's
8 actually a remarriage or reaffirmation of a civil union.

9 MR. HYLAND: Okay.

10 CO-CHAIRMAN BLUSTEIN-ORTMAN: The question
11 would be answered by a statement of opinion that would
12 rule; yes?

13 MR. KOMOSINSKI: It would probably defer to
14 the Attorney General's Office for a ruling on that
15 matter.

16 MS. BENSON: But there would be a risk.

17 CO-CHAIRMAN BLUSTEIN-ORTMAN: It would force
18 this conversation.

19 MS. BENSON: They would actually, by going
20 for the reaffirmation of the marriage, they would risk
21 being downgraded to civil union status.

22 MR. HYLAND: They could also then refuse to
23 go through the reaffirmation of the marriage or
24 reaffirmation of the civil union.

25 MS. BENSON: Could the state force the
0039

1 issue?

2 MR. HYLAND: I don't know that the state
3 could force the issue in that case.

4 What do you think, Joe?

5 MR. KOMOSINSKI: That would be a legal
6 matter that I couldn't -- I wouldn't be able to comment
7 on.

8 MS. BENSON: So it would still be a risk?

9 MR. KOMOSINSKI: It would definitely be a
10 risk. It would bring up a legal question.

11 At this point -- at this point in time,

12 there's been no couple that's in a marriage that's
13 applied for a remarriage in a similar situation. The
14 question hasn't been asked.

15 DENISE BRUNNER: I think even just that
16 there is a question shows right then and there that it's
17 not the same.

18 CO-CHAIRMAN BLUSTEIN-ORTMAN: It does.

19 DENISE BRUNNER: It's not the same. And
20 that's the exact cloud and fear that we all have. It's
21 just not fair.

22 MR. CORBITT: Hello? This is John from the
23 Star-Ledger.

24 CO-CHAIRMAN BLUSTEIN-ORTMAN: John, this is
25 Charlie Ortman. We're about two minutes from you or
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1 maybe a little less, if you could hold with us?

2 MR. CORBITT: Okay.

3 DENISE BRUNNER: We really feel that if we
4 had to downgrade -- if we would have to change to civil
5 union, we absolutely would be downgrading our
6 relationship. I don't see any way, shape, or form that
7 that should ever be allowed. We have 28 happy years
8 together, and hope to have a ton more.

9 FRAN BRUNNER: We have a community that
10 stands behind us and hasn't fallen into the Hackensack

11 River because we're a same-sex couple with a marriage
12 license.

13 DENISE BRUNNER: Also, I'm Roman Catholic.

14 We go to church, and I have even gone to my priest and
15 asked if we were welcomed in our church. He thought
16 that we made the appointment because we were having a
17 divorce. He actually came over, gave me a hug, and
18 said, "Yes, you're welcome in your church." If that
19 isn't affirmation of us being a happy married couple,
20 and that it did not change in the eyes of even my
21 personal church, I think that has to say a lot. I think
22 that says a lot.

23 MS. BENSON: Then the Catholic Church sees
24 your marriage as valid, even though it's a same-sex
25 marriage?

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1 DENISE BRUNNER: I will say my parish. If
2 we go to Rome, it won't be there.

3 MS. BENSON: In the eyes of your pastor it
4 is a valid marriage?

5 DENISE BRUNNER: Absolutely.

6 Also, in my profession. Another church has
7 sought me out to do work, and I specifically asked the
8 pastor that -- I don't want any problems. I want to be
9 up front about everything, and he asked me if it changed

10 the way that I do my plumbing, because I'm a plumber. I
11 said "No, not at all. In fact, it's probably made me a
12 little bit better."

13 CO-CHAIRMAN BLUSTEIN-ORTMAN: Thank you,
14 Denise and Fran.

15 DENISE BRUNNER: You're very welcome.

16 CO-CHAIRMAN BLUSTEIN-ORTMAN: Joe, this is
17 -- John, I'm sorry. This is Commissioner Charles
18 Ortman, and welcome to our hearing this -- our meeting
19 this afternoon, our public meeting.

20 You were going to fill us in on what's going
21 on at the Star-Ledger as it relates to our charge; yes?

22 MR. CORBITT: Well, basically, the
23 Star-Ledger has had a same-sex domestic partners benefit
24 package since about 2000 or 2001. And I'm planning to
25 retire in about a year, and my partner and I have

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1 recently gotten a civil union.

2 The laws -- not the laws, but the policies
3 concerning the continuation of the medical benefits for
4 my partner when I retire are really not -- not laid out
5 clearly.

6 The question was then asked of their
7 attorneys whether or not it applies to retiree benefits.

8 The answer was no, it does not, and yet in the Employee

9 Manual it implies that it is.

10 I think that the fact that civil union, as
11 opposed to marriage, is the terminology that's being
12 used confuses the issue. I really don't know that
13 everybody -- I understand there's an attorney in New
14 York who answered that question who may not understand
15 the Civil Union Law in New Jersey.

16 In any event, I really have no idea at this
17 point in time whether or not my partner will be covered
18 or will not be covered. If we could say we were
19 married, it would be a lot more clear. There's a lot of
20 ambiguity and confusion. It's confusing to me. It's
21 confusing to my partner. It's confusing to the
22 employers.

23 That's the gist of it, do you have any
24 questions for me?

25 MR. HYLAND: John, this is Commissioner
0043

1 Hyland.

2 Are you aware if the Star-Ledger has any
3 contracts or does business with the State of New Jersey
4 or local governments or county governments?

5 MR. CORBITT: When you say contracts, I'm
6 not sure what you mean by contract, in what sense?

7 MR. HYLAND: Any business that they may do

8 with the State of New Jersey where they would be a
9 contractor, such as do they accept advertising from
10 Municipalities or advertising of properties?

11 MR. CORBITT: Yes, they certainly do.

12 MR. HYLAND: Foreclosures sales and things
13 like that or Sheriff's Sale?

14 MR. CORBITT: Yes, they do.

15 MR. HYLAND: They do have some business that
16 they do with the State of New Jersey?

17 MR. CORBITT: Absolutely.

18 MR. HYLAND: Now, are they giving you a
19 reason for the denial of the benefits for retirement
20 purposes?

21 MR. CORBITT: Well, the original -- I've got
22 a copy of the original letter that went out to
23 everybody, dated October 2nd of 2000. It really doesn't
24 state anything clearly, except that it does say, "If it
25 becomes possible in your state, county, or city for

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1 gay/lesbian persons to secure legal recognition in the
2 relationship, that must occur in order for the
3 eligibility to continue."

4 It also was stated back in 2000 -- it was
5 dated that this policy, domestic partnership benefits,
6 was for the same-sex couples only because same-sex

7 couples did not have the opportunity to marry like
8 straight couples did.

9 MR. HYLAND: It seems that their position is
10 in violation of that letter, because you are able to
11 enter into a legally recognized relationship.

12 MR. CORBITT: It seems like that, yes.

13 Everything I read sounds like it ought to
14 apply, but it doesn't from what we're hearing.

15 MR. HYLAND: They have not given you a
16 definitive answer and they've not provided anything in
17 writing?

18 MR. CORBITT: No, they haven't.

19 MR. HYLAND: Later than 2000?

20 MR. CORBITT: The other thing is they have
21 not updated their policy in that regard since the Civil
22 Union Law went into effect. They're still operating
23 under the year 2000 original policy.

24 MR. HYLAND: And that predates the Domestic
25 Partnership Act?

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1 MR. CORBITT: Correct.

2 It's just very, you know, what I would term
3 loosey-goosey. It's just up in the air. It's not
4 clearly defined. It's very ambiguous.

5 CO-CHAIRMAN TAYLOR: John, this is

6 Commissioner Kevin Taylor.

7 I'm hearing an obvious question going
8 unanswered. If you and your partner were married, would
9 this be a concern? Is the policy clear on married
10 couples? Is it finite?

11 MR. CORBITT: Well, married couple -- let me
12 read to you from the Employee Manual. Hold on a second,
13 I've got it highlighted here somewhere.

14 It says, "The Star-Ledger provides generous
15 retiree medical and dental benefits." This is for
16 retiree medical and dental benefits, "Your benefit
17 coverage is determined by your age and length of
18 service. If you retire at age 55 or older with 10 or
19 more years of full-time service, you and your eligible
20 dependents at the time will receive medical and dental
21 coverage at no cost to you."

22 Under eligibility, it says, "An eligible
23 dependent" -- this is for benefits in general, not
24 retiring, "An eligible dependent is your spouse or
25 domestic partner and your unmarried dependent children,

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1 et cetera."

2 From reading that, it sounds like it should
3 be covered.

4 CO-CHAIRMAN BLUSTEIN-ORTMAN: John, this is

5 Commissioner Ortman again.

6 The question that it leaves open for me that
7 I think you can answer easily, were you civil unioned at
8 the time that you retired or did that occur --

9 MR. CORBITT: I have not retired, yet. I'm
10 going to be retiring in about a year.

11 CO-CHAIRMAN BLUSTEIN-ORTMAN: I'm sorry,
12 thanks.

13 MR. HYLAND: Have you raised this issue with
14 the Division of Civil Rights?

15 MR. CORBITT: No, I have not.

16 MR. HYLAND: It seems to me that you need to
17 file a formal complaint, because that is a violation --
18 probably a violation of the New Jersey Law Against
19 Discrimination, if it's an area of employment
20 discrimination. Civil unions are covered under LAD.

21 MR. CORBITT: Part of -- one of the things
22 that I've discovered in this whole quest is that the
23 insurance is in there, there is a qualified policy and a
24 fully paid -- you know, fully funded by the Star-Ledger,
25 not -- it's the health insurance policy, I guess is the

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1 term. My understanding is that if you have a policy
2 that's fully funded, or fully paid, that they can do
3 pretty much whatever they want under the Law.

4 I don't know if that applies to marriage or

5 -- you know, I'm not an attorney.

6 MR. GOLDSTEIN: John, the Star-Ledger -- the

7 Star-Ledger did not update its policy when asked to

8 include the term civil union partner; just to confirm?

9 MR. CORBITT: I'm sorry, I didn't catch all

10 of that.

11 MR. GOLDSTEIN: The Star-Ledger did not

12 update its Employee Policy per its handbook to include

13 the term civil union partner?

14 MR. CORBITT: No, it did not.

15 MR. GOLDSTEIN: Just to take notice of that,

16 that in the -- it seems that in the corporate world, the

17 term domestic partner doesn't exactly mean -- it doesn't

18 mean necessarily what it means in New Jersey Law.

19 Domestic partner is just used generically to mean any

20 same-sex partner by some companies, to mean something

21 else by other companies.

22 In New Jersey, domestic partner means

23 something very specific, as opposed to a civil union

24 partner. That's part of the confusion, perhaps.

25 MS. BENSON: This is Commissioner AnnLynne

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1 Benson. I have a question for you.

2 Have you asked your corporate human

3 resources for a determination of whether quote "spouse
4 or domestic partner" by definition means civil union
5 partner? Have you asked them for that determination?

6 MR. CORBITT: Well, I have explained my
7 situation to our HR director. She understands the
8 distinction herself, but she's not the one who makes the
9 ruling, it's made at a higher level. She has contacted
10 them on my behalf and they've come back and said no.

11 MR. HYLAND: But they haven't given you a
12 formal determination?

13 MR. CORBITT: No, nothing.

14 I'm feeling that it's still very up in the
15 air. I feel like I should qualify for this, but I don't
16 really see it in black and white anywhere that I am
17 qualifying for it.

18 MR. HYLAND: Why not apply and get a
19 determination one way or the other? And get a reading
20 from them of what the exact policy is?

21 It seems to me that would be in your
22 interest to do so, as well as in the interest of
23 similarly-situated other employees, to get some type of
24 a formal policy. And I know sometimes it's difficult to
25 be the squeaky wheel, but sometimes you need to.

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1 MR. CORBITT: I have tried to get something,

2 and they seem to be reluctant to put anything in
3 writing.

4 MR. HYLAND: Why don't you put something in
5 writing to them, formally, to which they will have to
6 respond formally? And at least get some clarification
7 at this point for yourself and others as to what their
8 exact policy is. Maybe they'll address the issue and
9 maybe they won't.

10 I realize that from the point of view of
11 whether we're dealing with civil unions as opposed to
12 marriage equality, it seems like an awful lot of work to
13 have to do these types of things, but sometimes you have
14 to push some of these issues.

15 MR. CORBITT: I realize that. And I've been
16 pushing from several fronts, but to date I don't really
17 have a clear answer.

18 CO-CHAIRMAN BLUSTEIN-ORTMAN: Very good.

19 MR. CORBITT: I also don't want to
20 jeopardize anything at this point in my career.

21 CO-CHAIRMAN BLUSTEIN-ORTMAN: Yes, thank
22 you, John.

23 MR. CORBITT: Thank you.

24 CO-CHAIRMAN BLUSTEIN-ORTMAN: Thanks for
25 being with us.

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1 CO-CHAIRMAN TAYLOR: Brad Sears is supposed
2 to be calling in at 2:15.

3 MR. CORBITT: We're done; right?

4 CO-CHAIRMAN BLUSTEIN-ORTMAN: Yes, thank you
5 so much.

6 MR. CORBITT: Bye.

7 MR. HYLAND: Barbara Allen, are you still on
8 the phone?

9 MS. ALLEN: I'm on. I had a problem getting
10 on, I was on hold for like an hour. What was going on
11 with that?

12 CO-CHAIRMAN BLUSTEIN-ORTMAN: We were
13 reaching out to you, and we just couldn't find you.

14 MS. ALLEN: It kept saying that I was the
15 first caller and I said, "Oh, goody, I'm the first
16 caller!" I was the first caller for like half an hour,
17 and I thought that that was really strange.

18 CO-CHAIRMAN BLUSTEIN-ORTMAN: Welcome.

19 REV. EIDMANN-HICKS: It's great to be here,
20 and thank you for doing this. I'm a hyphenated name.
21 My wife and I stuck our names together and made our
22 marriage very complicated.

23 I'm a pastor at the United Church of Christ
24 up in Holmdel. I've been there for 17 years.

25 My denomination is one that has called for

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1 marriage equality, and it declared itself open and
2 affirming back in 1985. 20 years later in 2005, it
3 declared itself in favor of marriage equality.

4 It's a top-down denomination in the sense
5 that the local churches have much more authority than
6 the National Church. The National Church is really more
7 of an advisory body or encouraging local churches -- and
8 so local churches then go through a process of becoming
9 open and affirming. My church is in the process of
10 doing that now.

11 We have a number of gay couples and same-sex
12 couples and individuals. I have really sensed a
13 tremendous amount of pain and sorrow and anguish that
14 these people have experienced in society, but also in
15 terms of just religiously. I know that's not your
16 domain, but it is -- I think in terms of the issue of
17 the word marriage versus civil union, there's a
18 tremendous gap. It's similar to the word -- the
19 difference between open and affirming. Many people can
20 say, "Yes, we're open. You can come to my church, but I
21 certainly won't affirm you." In a similar way it seems
22 that there is a sense that yes, you can have a civil
23 union, but we're not certainly going to call it marriage
24 and it certainly doesn't qualify.

25 One man in the process that he's going

0052

1 through talked about the way that when he came out to
2 his family, he was disowned by his family, but also felt
3 that he had been disowned by God and had been destined
4 to hell. That was what he had been taught, that was a
5 perception of his. He's lived under that feeling for
6 years and has felt an enormous sense of relief coming
7 into an tradition where he's welcomed and affirmed for
8 who he is. He's just a person who's this way.

9 I think it would be similar in terms of
10 marriage being -- it sounds like it is a semantic issue,
11 but there's a big difference between this person is
12 married. They have kids. They can come to potluck
13 suppers and be welcomed at Christmas parties as a
14 married couple. It's a totally different experience.

15 I would encourage this body to change the
16 word, to shift toward the word marriage, because these
17 people deserve companionship and they deserve -- and
18 certainly experience, as far as I can tell, the exact
19 same feelings, the same need for companionship and
20 unity.

21 In my tradition, marriage is seen as a
22 union, that the two may become one. All people should
23 be able to have access to that experience, I believe.

24 CO-CHAIRMAN BLUSTEIN-ORTMAN: If I could ask
25 you the same question that I asked Reverend Stephens
0053

1 earlier, would you be able to testify as to debilitating
2 effects or negative outcomes on heterosexual couples in
3 your congregation should marriage be affirmed?

4 REV. EIDMANN-HICKS: I think people in my
5 church would be -- would not blink and actually would
6 feel very good about it. I don't think their marriages
7 would feel threatened at all, in fact, more affirmed
8 because of a sense of affirming with that kind of unity
9 and companionship that all people are meant to have. It
10 would be more of a celebration than a threat, I think.

11 CO-CHAIRMAN TAYLOR: You spoke of the
12 complication of your marriage by the hyphenating of your
13 names. Given the ease with which you could have just
14 been married, I'd like to hear why you and your wife
15 opted to do that?

16 REV. EIDMANN-HICKS: Because we believe in
17 equality and we believe that -- the two of us believe
18 that it's not fair for a woman to give up her name, why
19 not combine names to show that we're on equal footing?

20 It was not easy. It could have been easier
21 if I understood the Law, but I had to go to court and
22 get a legal name change, which took about a year.

23 CO-CHAIRMAN BLUSTEIN-ORTMAN: I wasn't born
24 this way either.

25 MR. SEARS: Brad Sears.

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1 CO-CHAIRMAN BLUSTEIN-ORTMAN: Hi Brad, this
2 is Commissioner Charles Ortman. We'll be with you in a
3 moment, if we could? Can you hold with us?

4 MR. SEARS: Yes.

5 CO-CHAIRMAN BLUSTEIN-ORTMAN: Very good,
6 thanks.

7 CO-CHAIRMAN TAYLOR: Any other questions?

8 MS. BENSON: I just would like to ask you
9 for a clarification.

10 What you're saying is that you have had the
11 opportunity to see how, what you called a semantic
12 issue, has affected people in practical ways, in real
13 life, daily situations?

14 REV. EIDMANN-HICKS: Yes, the semantics
15 matter, the labels matter, and perceptions matter
16 tremendously.

17 It is a difference between feeling on the
18 outside and feeling on the inside, and human beings need
19 that sense. I've even read that there can be a sense of
20 physical healing by being included in a group. I've
21 seen that in -- especially with the same-sex couples who

22 come into my church, that sense of relief and joy to be
23 accepted for who they are.

24 MS. BENSON: You also stated, I believe,
25 that you thought that heterosexual couples in your
0055

1 congregation would experience a greater sense of unity
2 if all of the committed monogynous couples carried --
3 again, semantic, to use your word -- term of marriage,
4 rather than having it sort of divided out? If you're in
5 this category, you get this name, and if you're in that
6 category, you get that term?

7 REV. EIDMANN-HICKS: I believe so. It would
8 affirm the commitment that people make to each other.
9 The wholehearted, unconditional commitment, that sense
10 of unity of two lives. I think that would affirm the
11 same experience within a heterosexual couple.

12 MS. BENSON: Thank you.

13 MS. O'LEARY: Commissioner O'Leary, I just
14 want to follow-up on a little clarity.

15 I'm not so sure, and I wanted to know -- you
16 said it goes beyond an semantic issue. It's not a
17 semantic issue for you, it's actually beyond an semantic
18 issue?

19 REV. EIDMANN-HICKS: It involves semantics,
20 but it's far beyond. It's deeply emotional and

21 transformational like that.

22 A similar word is the word sin. Many
23 churches label homosexuality as a sin, that's a charged
24 word. It's exactly what we're striving to get away from
25 in our church. It's termed as a genetic condition, it's
0056

1 a civil rights issue. It's something that people were
2 born with, like the color of your skin or left-handed or
3 right-handed.

4 CO-CHAIRMAN BLUSTEIN-ORTMAN: Since you have
5 put the word sin on the table, would you define sin for
6 us?

7 REV. EIDMANN-HICKS: Okay, fine, that's
8 fair.

9 A sin, I would see, as an alienation from
10 God, an alienation from the will of God, a separation
11 from the source of life. How could that be if a person
12 was created by God the way they are, how could they be
13 anything but who they are? And then to label that as a
14 sin -- sin is more of an action, something that is
15 willful, something that is done intentionally, whereas
16 being born left-handed, how can that be a sin?

17 CO-CHAIRMAN BLUSTEIN-ORTMAN: Thank you.

18 MR. GOLDSTEIN: Thank you.

19 CO-CHAIRMAN TAYLOR: Brad Sears?

20 MR. SEARS: Yes.

21 CO-CHAIRMAN TAYLOR: How are you, sir?

22 MR. SEARS: Good, how are you?

23 CO-CHAIRMAN TAYLOR: I'm fine, thank you.

24 Welcome.

25 CO-CHAIRMAN BLUSTEIN-ORTMAN: Welcome back.

0057

1 MR. SEARS: Thank you.

2 CO-CHAIRMAN TAYLOR: The floor is yours.

3 MR. SEARS: I'm Brad Sears, the Executive

4 Director of the Williams Institute. We're a research

5 center on sexual orientation, law, and public policy at

6 the UCLA School of Law. I've been asked to talk about

7 some of the income tax inequalities that result from

8 couples in general and in New Jersey not being allowed

9 to marry.

10 I'm going to make one disclaimer before I

11 start in that our real economist and tax expert, Lee

12 Badgett, is responsible for a lot of the research that

13 I'm going to present. She's on a plane right now, so --

14 I'm a lawyer and participated in much of this research,

15 and I'll try to represent her work as best I can.

16 I thought it would be helpful if I walked

17 through three research reports that we've done in the

18 past two years. Maybe you can enter them into your

19 record, and then I'll talk more about the experiences a
20 lot of couples in California and other states that have
21 some sort of recognition of couple rights and the
22 problems that arise between having different state and
23 federal income tax systems and the ability to file
24 jointly or not.

25 The three studies that I'm going to talk

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1 about -- the first was published in July of this year.
2 It's called, "Marriage Registration and Dissolution by
3 Same-Sex Couples in the U.S." It basically looked at
4 all the states that have recognized couple rights, in
5 terms of how many people have either married or entered
6 civil unions or domestic partnerships and some other
7 data such as how many couples have dissolved.

8 The second was published in December of 2006
9 in the Rutgers Journal of Law and Public Policy. It is
10 a comprehensive analysis of kind of the economic impacts
11 of extending the rights of marriage to same-sex couples
12 in New Jersey. It's a New Jersey-specific study, and
13 I'll be using an analysis of the income tax impact of
14 allowing couples to file jointly from that study.

15 The third was published in December of 2007,
16 a little less than a year ago. It's called, "Unequal
17 Taxation of Unequal Benefits: A Taxation of Partner

18 Benefits." It deals with the unfair talks and
19 consequences when employees who have a domestic partner
20 receive healthcare benefits, the unequal tax burden that
21 they receive at the federal income tax level.

22 Let me begin with the study dealing with the
23 number of couples who have registered and dissolved and
24 the study that we published in July. This study
25 basically looked at all the states that have marriage or
0059

1 civil unions or domestic partnerships of same
2 sex-couples. We measured how many couples had entered
3 -- when they had entered into a relationship and if they
4 had dissolved and any other data that we could find.

5 One result from the study was clear,
6 same-sex couples have a very strong preference for
7 marriage. The one state that's extended marriage to
8 same-sex couples where we have the most data is
9 Massachusetts. 37 percent of those couples in that
10 state entered into marriage in the first year.

11 If you look at all of the states that either
12 have civil unions or domestic partnerships, only 12
13 percent of the couples in those states entered into
14 civil unions in the first year and only 10 percent
15 entered into domestic partnerships. As a benchmark for
16 New Jersey, we figured about 12 percent of the couples

17 entered into civil unions in the first year that it was
18 offered.

19 We do have some data now with California,
20 and we've seen a track that we saw in Massachusetts.
21 About 18,000 couples are instituted as married between
22 June 17th and yesterday.

23 We also, from the same study, can tell it's
24 not just a name, it's the amount of rights under State
25 Law that you grant by the status. If all rights under
0060

1 State Law are granted, about 21 percent of couples enter
2 into the status the first year, that would be marriage
3 or civil unions. For domestic partnerships statutes,
4 that offered few rights, only about 10 percent of
5 couples entered during that first year.

6 What does this mean for New Jersey if
7 marriage was offered in New Jersey? We would see,
8 probably within a year, a tripling of the number of
9 couples who are marrying as opposed to currently have
10 civil unions, and for that number to exceed 10,000
11 within the first three years. Most of that would occur
12 within the first year or year and a half.

13 We also looked at dissolution rates, and we
14 have given a few other points just because they relate
15 to New Jersey. We have the dissolution rates. We saw

16 that the dissolution rates of same-sex couples in all of
17 these states are comparable to that of different type
18 couples, if not lower. The kind of national average for
19 divorces in the U.S. is around 2 percent of all married
20 couples. We saw rates kind of from state to state
21 varying around that 2 percent. New Jersey is much
22 lower, less than half of a percent.

23 Other New Jersey information that we
24 gathered that you may already know is that the majority
25 of couples are women who are entering civil unions right
0061

1 now. They tend to be younger, about 34 percent are over
2 50, compared to 46 percent of married couples.

3 The numbers that I'm going to take from that
4 initial piece for the rest of my analysis is that more
5 couples will marry substantially, as they said, about a
6 tripling in the first year and over 10,000 couples
7 within the first three years.

8 The inequalities due to differences in
9 income tax will be lessened to the extent that couples
10 can marry and take advantage of some of the rights under
11 having a new tax status.

12 I'll also mention where the differences
13 between the treatment of couples under state income tax
14 law and federal income tax law will continue to create

15 some inequalities.

16 The first impact and the most relief that
17 going from civil unions to marriage will have for
18 couples is that more couples will marry and more will
19 have the ability to file jointly. We can determine from
20 our analysis that we did back in December of 2006 that
21 was published in the Rutgers Journal of Law and Public
22 Policy is that about a third of same-sex couples in the
23 state are currently paying too much in taxes because
24 they can't access the ability to file jointly as
25 married. The inability to file jointly is causing them
0062

1 to pay higher taxes.

2 To do that analysis, we basically took
3 census data about all the couples in the state. We ran
4 their taxes twice, once with the model based on how
5 they're filing taxes without marriage or without civil
6 unions. We either assumed if they had kids, one was
7 filing as the head of household, the other was single
8 with no kids, that they would both be filing single, and
9 then what would happened if they filed as married/filing
10 jointly.

11 There actually will be different effects on
12 different couples. Some couples will see their taxes
13 increase. Some will see them -- a relatively small

14 percent will see their taxes stay the same. About a
15 third, as I said, would actually get the benefit of the
16 status of married/filing jointly.

17 When we did that analysis again in 2006
18 using the 2005 New Jersey state tax schedule for these
19 couples, for those who are going to experience a tax
20 decrease if they can file jointly, we figured that about
21 36 percent of the couples in the state are currently
22 paying too much in taxes. On average, they would pay
23 about \$370 less with the married/filing jointly status.

24 MR. HYLAND: Brad, this is Commissioner
25 Hyland, and I'm probably the only person here with a tax
0063

1 background.

2 May I ask, you're giving us data that
3 predates the civil unions; correct?

4 MR. SEARS: Yes.

5 I think the insight -- the impact here is I
6 believe what's happening in New Jersey is couples are
7 not entering into the civil union status, that they are
8 waiting for marriage.

9 I think the data from around the country
10 shows that. You have this pool of couples who are still
11 paying higher taxes because they're waiting for the
12 state to act on marriage.

13 MR. HYLAND: Yes, but that's still a
14 personal decision.

15 If they enter the status of civil union,
16 they get the same benefit as a married couple under
17 State Law.

18 The real impact that we're seeing with
19 same-sex couples comes primarily from the federal
20 failure to recognize marriage for same-sex couples or to
21 recognize -- and in particular, even if it did recognize
22 -- if DOMA went away, we still have an issue that
23 there's a lot of Federal Law that doesn't recognize
24 civil union status.

25 MR. SEARS: And that's actually what I'm
0064

1 going to move to next is those kinds of issues and
2 discrepancies between the state and federal system.

3 The first one I'd like to cover is related
4 to the study that we published in December of 2007 on
5 the unequal tax burden when employers provide domestic
6 partner health benefits. Basically, there's a federal
7 tax incentive for employers to provide healthcare
8 benefits to employees and their spouses. That benefit
9 of the spousal healthcare coverage is in the form that
10 -- that is not taxed as income. It's exempt from income
11 tax, it's not counted as income.

12 If an employer decides for same-sex partners
13 to provide healthcare benefits to the domestic partner,
14 that is considered imputed income. It has tax
15 implications for the employee and for the employer. For
16 the employee, they pay income tax on that, at whatever
17 rate they're paying. They pay a higher payroll tax of
18 7.65 percent, which is an increase in social security
19 and Medicare tax. The employer also has to figure out
20 what that imputed income is, it pays around the
21 equivalent in higher taxes around 7.65 percent.
22 Basically, if an employer decides to have more greater
23 quality benefits, it ends up paying more. The employee
24 is paying for having the benefit. What we get from
25 employers is there's a big administrative hurdle as well

0065

1 that you have to figure out, how to figure out the
2 imputed income. The employers are unhappy with having
3 to go through this process as a result of offering this
4 benefit.

5 In the study that we published in December
6 of --

7 MR. HYLAND: Brad, again, this is
8 Commissioner Hyland.

9 Let me ask you to address the question of
10 how does the status under State Law affect -- the effect

11 upon the employer and the employee in terms of the
12 imputed income question?

13 MR. SEARS: And this is a question that I
14 don't know the answer to in terms of -- in New Jersey,
15 has there been any amendment to your state income tax to
16 offset either -- to not count this as imputed income or
17 offset the federal tax?

18 Both of those proposals have been considered
19 here in California.

20 MR. HYLAND: Yes, absolutely.

21 Under New Jersey Law, all income tax
22 treatment of civil union couples is equal to that of
23 treatment under State Law for married couples.

24 On the issue of imputed income, there has to
25 be withholding for federal tax purposes, but there's no

0066

1 withholding for state tax purposes, as there is no
2 withholding for married couples. In fact, it causes --
3 it does cause some extra work, because the statements
4 that are sent out to the employees are different for
5 state tax purposes than they are for federal tax
6 purposes.

7 MR. SEARS: Right.

8 MR. HYLAND: From the imputed tax point of
9 view, there's no difference in the treatment between

10 civil unions and marriage.

11 Again, I guess the question is, where is
12 this effect coming from? Is it coming from the failure
13 to recognize same-sex couples under Federal Law or is it
14 the failure under State Law?

15 MR. SEARS: This would be the impact of
16 DOMA, under Federal Law of not extending that benefit to
17 domestic partners or to married couples.

18 If you extend marriage to same-sex couples,
19 I guess the easy thing to do -- if the new
20 administration repeals DOMA and couples in your state
21 are married, then everything will flow quite easily.

22 MR. HYLAND: Have you looked at the issue of
23 whether a recognition under -- doing away with DOMA,
24 which addresses the terminology of marriage and spouse,
25 would have an effect on -- a disparate effect on states

0067

1 that use civil unions as opposed to states who use --
2 provide marriage rights for all such couples?

3 MR. SEARS: I think that would require kind
4 of an IRS determination. What's clear is that if
5 couples are married, then no further determination would
6 be necessary.

7 If not, then it's up to the IRS or another
8 piece of legislation clarifying that the same benefit

9 would extend to domestic partners in civil unions.

10 MR. HYLAND: The likelihood is that if DOMA
11 goes away, there will be an impact upon civil unions,
12 but not an impact upon states that provide marriage
13 equality.

14 For all of the Tax Law, because it all
15 references marriage or spouse or other such terminology
16 and all decisions reference marriage et cetera, and they
17 look to State Law in that case, for the definition of
18 those terms, then what happens is the Federal Government
19 -- it doesn't care, but they have no terminology as I've
20 ever seen for civil union. Would that mean that a
21 couple, for example, in a civil union in New Jersey
22 without DOMA would still have an effect on their taxes
23 and other federal rights because of calling it a civil
24 union as opposed to calling it a marriage?

25 MR. SEARS: I think that's right, something
0068

1 further would be required.

2 The immediate, and I think the clearest
3 effect, would be on couples married under State Law, and
4 something else is going to have to be done for that to
5 be tentative for use in domestic partnerships.

6 To date, we've seen a great deal of
7 resistance by several federal agencies to recognize

8 domestic partnerships and civil unions as equivalent to
9 marriage, even when it would save our Federal Government
10 a great deal of money, as in the case of federal means
11 testing public benefits. Those assets are not
12 recognized to deem in a partner's income for the income
13 determination.

14 Just to conclude on the unequal impact due
15 to the taxation of healthcare benefits; what we
16 calculated in our study is that for the average employee
17 with a domestic partner, they're paying \$1,069 more in
18 taxes per year than a married employee who's covered
19 under their healthcare plan.

20 Collectively, unmarried couples are paying
21 about \$178 million more per year in additional taxes in
22 the U.S. Employers are paying approximately \$57 million
23 per year in additional payroll taxes.

24 An interesting thing was that when we
25 released this study, we had members of Congress and
0069

1 employees and leaders of several Fortune 500 companies
2 all at the press conference releasing the study, all
3 saying that this is creating a burden for everyone
4 having the imputed income tax for the healthcare
5 benefits.

6 And the final thing that I leave with, and

7 it's based on the experience with talking with lawyers
8 and tax accountants in this state, as well as couples,
9 is that obviously there's an administrative burden
10 created as a result of the fact that even though couples
11 in New Jersey or in California can file jointly under
12 State Law, they cannot do so under Federal Law as a
13 result of DOMA.

14 At minimum -- therefore they're paying
15 different taxes at the federal and state level
16 subsequently, but it also requires them to do two
17 different tax returns. The computer software that's set
18 up to help people do taxes, for the most part, doesn't
19 provide an easy way for them to file or to create both
20 returns without doing the whole process twice. If they
21 hire somebody to do taxes, they're paying for two tax
22 returns to be done as opposed to one.

23 Here in California where we have community
24 property, there's all sorts of additional hassles and
25 figuring out what's shared property and what to get from
0070

1 what partner to another. I have no study based on that
2 experience, but I can tell you that there is quite a
3 large working group, lawyers and tax accountants, here
4 in California focused on that issue. Mainly at this
5 point, they've spent a lot of time cataloging the

6 various problems that couples are having and trying to
7 figure out how to resolve them. As long as DOMA is in
8 place, that will continue to be a burden for couples.

9 CO-CHAIRMAN BLUSTEIN-ORTMAN: Thank you,
10 Brad.

11 Are there any other questions?

12 MR. HYLAND: Again, this is Steven Hyland.

13 Does the effect of having civil unions in a
14 state or some other status, other than calling it
15 marriage, mean that there are two approaches to
16 equality, assuming that DOMA goes away?

17 One is that the state goes to a model of
18 using the same terminology for all couples, whether
19 they're opposite sex couples or same-sex couples, or
20 having the Federal Government go through the process of
21 amending various laws and regulations to include both
22 marriage and alternative statuses, such as civil unions
23 or domestic partnerships. Are those really the only
24 choices, again, assuming DOMA goes away?

25 MR. SEARS: Yes, assuming DOMA goes away.

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1 It's either going to require that additional
2 amendment or changes at the administrative level, at the
3 federal level.

4 At the state level yes, as long as what's

5 meant for all couples is marriage, then that's the way
6 to solve it. If it's some other term, then you still
7 need that change at the federal level.

8 MR. HYLAND: Okay.

9 CO-CHAIRMAN BLUSTEIN-ORTMAN: Very good.

10 Thank you very much, Brad.

11 MR. SEARS: And all those studies are on our
12 website, and I'll be happy to E-mail links to you as
13 well.

14 Thank you.

15 CO-CHAIRMAN BLUSTEIN-ORTMAN: Thank you, so
16 long.

17 We would now like to ask Mr. Patrick
18 Brannigan from Catholic Conferences to come forward.

19 (Whereupon, a discussion was held off the record.)

20 CO-CHAIRMAN BLUSTEIN-ORTMAN: Mr. Brannigan,
21 welcome.

22 MR. BRANNIGAN: I now know why I didn't
23 become an accountant.

24 I want to thank the Director who called me
25 and invited me to testify. It's a pleasure to be here.

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1 If you don't mind, I'd like to read my testimony.

2 CO-CHAIRMAN TAYLOR: Which is being passed
3 around.

4 MR. BRANNIGAN: Basically, the Catholic
5 Conference represents the Catholic Bishops on matters of
6 public policy. We also do a lot of coordination to help
7 facilitate joint activities, so they can save some money
8 and do things together, rather than do it individually.

9 Today, I'd like to limit my testimony -- I
10 chatted with the Director last week. I think it was
11 really based upon my own experience in my career, where
12 I spent 40 years in various elements of State
13 Government, but where most of my career was working in
14 jobs, trying to improve government to make the
15 government work better, and also in the area of public
16 ethics.

17 My comments, if you're interested in
18 Catholic Church teachings, our websites are available at
19 the Catholic Conference level, so you could go there and
20 find the Church's teaches on marriage.

21 Perhaps the most apropos basis for my
22 testifying was my experience from 1974 to 1980 in the
23 Department of Public Advocate. I was the Deputy
24 Director of the Division of Citizen Complaints and
25 Disputes. When I was there, oftentimes our employees
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1 would come and say, "oh, the Governor's office sent
2 these people to us and they're crazy." And I would say

3 to them, "Be thankful. As long as they know you're here
4 to resolve their complaints, you'll keep your job." I
5 was a professional recipient or complaint listener, and
6 we found it a very rewarding occupation.

7 Each year we receive between 15,000 and
8 20,000 contacts with the public. Less than half of
9 those contacts were actually complaints against state
10 agencies. Most of the contacts were requests for
11 information from citizens who were confused or had a
12 consumer or private sector complaint.

13 What we would do, the Office of Citizen
14 Complaints would refer those other consumer complaints
15 to the Division of Consumer Affairs, or we would refer
16 them to another state or federal agency for resolution.

17 One of the things that we did was that we
18 concentrated on fact finding. When we concentrated on
19 fact finding, what we found was that very often, the
20 contacts from the public were really unfounded
21 allegations. Now, I want to emphasize that the Public
22 Advocate very carefully investigated and analyzed the
23 fact basis of all complaints. In my experience of
24 Public Advocate, a high volume of complaints was often
25 an early warning signal of serious problems or potential

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1 problems at an agency. A careful analysis of the types

2 and the volume of the complaints could provide important
3 information about the problems.

4 One of the things that we found was that
5 often, the heads of the agencies were unaware of these
6 budding problems within their agencies. We were often
7 telling these agencies, making them aware of things that
8 were not going right and could potentially cause serious
9 problems.

10 Under our standard operating procedures,
11 after investigating and fact finding the complaints, the
12 Office of Citizen Complaints always contacted the state
13 agency. We were up front with them in saying, "This is
14 what is happening. This is what people are saying." We
15 attempted to resolve the complaint, if at all possible,
16 at the first level, so that it wouldn't have to go any
17 further.

18 At times we were not successful in resolving
19 complaints, and agencies resisted what we were saying.
20 In those cases, what we would do is issue a report that
21 would outline the facts of the situation and as
22 appropriate, we would make recommendations for action by
23 the agency, by the legislature, and even make
24 recommendations to litigate and go to the courts.

25 One of the reasons that the Public Advocate

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1 reports stood the test of scrutiny, and they were
2 scrutinized and often led to reforms at state agencies,
3 was that we very carefully distinguished and catalogued
4 the difference between requests for information and
5 complaints and the difference between legitimate
6 complaints and unfounded allegations.

7 I would recommend that the Commission here
8 adopt a similar process for handling complaints, so that
9 you can identify and put them in categories because it
10 helps you to make your case.

11 Now, my point in going into so much detail
12 about an old agency that, thank goodness, does exist
13 again in the Public Advocate, is that in the course of
14 20 months or so, our office received only eight
15 complaints about a particular agency. We would not have
16 considered that to be an early warning signal of deeper
17 problems within that agency. We certainly wouldn't say
18 that the agency was broke from the complaints. I
19 understand, and the Director made a report earlier, that
20 there were only eight complaints related to the Civil
21 Union Act.

22 My conclusion is that I don't think that the
23 Civil Union Act is broken. I mentioned to the Director
24 that there certainly needs to be more education of
25 everyone from agencies -- governmental agencies and

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1 employers and people, so that everyone understands what
2 the Act requires. That enforcement is what I think I
3 would encourage you to make efforts to enforce the Law,
4 because it is the Law and everyone ought to obey the
5 Law.

6 Thank you.

7 MR. HYLAND: Mr. Brannigan -- yeah, I have a
8 couple of questions, you know that I have questions.

9 Let me ask you about your experience with
10 the --

11 CO-CHAIRMAN BLUSTEIN-ORTMAN: Stephen, I
12 would just remind us all that we have a lot of witnesses
13 that are going to have to leave soon.

14 MR. HYLAND: I understand that. I just have
15 two questions.

16 One, is your experience with the Division of
17 Citizen Complaints -- you were taking complaints on
18 behalf of the population of essentially the entire State
19 of New Jersey; is that correct?

20 MR. BRANNIGAN: Correct.

21 MR. HYLAND: How would you look at that in
22 terms of a percentage of complaints received versus the
23 population of the state?

24 MR. BRANNIGAN: The complaints that we

25 received were really based upon the contact that the
0077

1 public had with an agency, so the highest percentage of
2 complaints were against Motor Vehicles.

3 We issued three or four reports. I was
4 pleased one day when I was reading the Trenton Times
5 during Stanley Van Ness' illness, when they related to
6 the report that he had issued 17 years ago. I got a
7 tickle out of it, because I wrote the report, but it
8 wouldn't have had any impact if it wasn't under
9 Stanley's signature.

10 Motor Vehicles certainly dominated, but
11 there were complaints. Many times, the complaint was
12 caused by a rude or callous treatment of a citizen by an
13 agency that did not do something inappropriately, but
14 they treated the person as if they didn't have any
15 dignity. The person was annoyed and they had to tell
16 somebody about it, so they would come and tell us about
17 it.

18 One of the things that we almost always
19 recommended was training for agencies on, we called it
20 customer service at the time, so the way that they
21 treated people -- that they would treat people with
22 dignity and as if the people were important. Sometimes
23 in bureaucracies, that doesn't occur.

24 MR. HYLAND: Do you think that the number of
25 formal complaints that you received are representative
0078

1 of all of the complaints that people encountered or some
2 percentage of the complaints that people encountered?

3 Are you looking at this report as being kind
4 of the tip of the iceberg, as opposed to a larger body
5 of complaints that people just don't complain for
6 various reasons or file anything formal for various
7 reasons?

8 MR. BRANNIGAN: It'd be hard for me to
9 speculate on that.

10 I think it would be fair to say that most
11 people don't complain, so that is a fair assessment to
12 say that it usually takes something serious. Most
13 people try to let things roll off their back, like water
14 off a duck's back.

15 CO-CHAIRMAN BLUSTEIN-ORTMAN: I have a
16 question.

17 Would you have any idea in a given year of
18 15 to 20,000 cases, how many of those cases might have
19 gone to the Attorney General's Office or the Department
20 of Civil Rights or filed charges against the agency that
21 had a complaint that you were investigating as well?

22 MR. BRANNIGAN: If I had a photographic

23 memory, I could tell you. I can remember the charts
24 with the columns, but I can't remember the specifics.

25 At that time, the Division of Motor Vehicles
0079

1 was within the Department of Law and Public Safety.
2 Quite a few would go to the Attorney General's Office.

3 As a matter of fact, I sat on the special
4 Task Force to look at it and that was -- that Task Force
5 was staffed in the Attorney General's Office, so that
6 quite a few of our contacts went to the A.G.'s Office.

7 MS. CASBAR-SIPERSTEIN: Commissioner
8 Casbar-Siperstein. Mr. Brannigan, it's good to see you
9 again.

10 When you were at the Public Advocate, you
11 mentioned basically these complaints against state
12 agencies. It seems the over -- is that correct that the
13 overwhelming number were against agencies, rather than
14 perhaps businesses that might have -- individual
15 businesses or private corporations that may have done
16 work with the state, and in that way being affected by
17 the Law? What percentage of these complaints were done
18 by state agencies rather than private businesses?

19 MR. BRANNIGAN: I was very careful there. I
20 talked about the context of -- context from the public.

21 We were very careful as a state agency and

22 in the Public Advocate, which was very legal-oriented,
23 to document the contacts that we had with the public and
24 to categorize what department the majority of contacts
25 we had were from people who were confused and didn't
0080

1 know what to do.

2 We made a policy decision in those early
3 days, which is now 30 some odd years ago, that we would
4 help people. When someone came to us and they were
5 confused about something that was happening in the State
6 Government, whether it was income taxes or something in
7 the Department of Health or whatever, that we would try
8 to provide them with that information to make a
9 connection with them. We started talking about the term
10 one-stop service, so we could help people out, so that
11 we wouldn't just say, "Sorry that's not our business."
12 Over half were those.

13 Of the serious complaints that we received,
14 I would be guessing right now to go back and try to give
15 you the number. Although, clearly, the vast majority of
16 contacts were people who were confused and needed
17 information. There was a good percentage of referrals
18 that we would refer, but even there when we referred, we
19 would do a formal referral.

20 The people usually got better attention if

21 we sent over a letter from the Public Advocates to the
22 Division of Consumer Affairs. They tended to give them
23 attention rather than -- they also had a high volume of
24 contacts with the public, which probably exceeded ours,
25 the Division of Consumer Affairs.

0081

1 MS. O'LEARY: Commissioner O'Leary.
2 I'm wondering what the charge was, forgive
3 me, I don't know what it was and if it's different from
4 today's Public Advocate charge. What was the charge of
5 the Public Advocate? I'm assuming that it was pretty
6 broad.

7 MR. BRANNIGAN: It was much broader than
8 today. The POR was a voice for the voiceless.

9 There were multiple divisions. There was --
10 Rape Counsel was in the Public Advocate, I think now
11 it's part of the PUC. There was a Division of Inmate
12 Advocacy. There was a Division of Public Interest
13 Advocacy, which brought the new lawsuits on housing. I
14 think there was a Division of Mental Health Advocacy,
15 I'm not sure of the exact name, but it dealt with people
16 who were in state facilities and other hospitals. It
17 was a very broad department.

18 MS. O'LEARY: Okay.

19 CO-CHAIRMAN BLUSTEIN-ORTMAN: Frank?

20 CHAIRMAN VESPA-PAPALEO: Thank you very much
21 for coming today and testifying. We had a very nice
22 conversation when we chatted the other day.

23 My question really just had to do with the
24 complaints of the Public Advocate gets. Are --

25 MR. BRANNIGAN: I'm unfamiliar with today.

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1 CHAIRMAN VESPA-PAPALEO: At the time that
2 you were at the agency, it was with regard to how the
3 government interacts with the public; right? They did
4 not handle any matters regarding how the private sector
5 interacts with the public?

6 MR. BRANNIGAN: That type of contact came to
7 us, and what we would do is refer them to the
8 appropriate agency, whether it be a state agency or at a
9 federal agency or a legal agency. Oftentimes, counties
10 would have services there.

11 In fact, we did get good numbers of
12 complaints about pension systems, state pension systems,
13 so when I was listening to the telephone conversation --
14 that and most of those were a clarification of people
15 being confused or whatever, so we spent a lot of time
16 putting people on the right track.

17 CHAIRMAN VESPA-PAPALEO: And now when --
18 what was the difference between an inquiry and a

19 complaint, in your definition?

20 MR. BRANNIGAN: An inquiry was when they
21 would contact us and they would consider a complaint in
22 their own mind. They would call up and say, "I'm
23 complaining." Of course, when your office is the Office
24 of Citizen Complaints, you become a target for people
25 who have an axe to grind.

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1 A complaint was when a state agency had
2 taken some action or had not taken some action and it
3 had a negative impact on an individual and they wanted
4 some resolution of that. They would come to us as an
5 advocate for them in resolving the situation.

6 The types of complaints were very broad.
7 You could take out a dictionary and stick your finger in
8 there and you probably had a complaint about that.

9 CHAIRMAN VESPA-PAPALEO: Okay, that's very
10 helpful.

11 The other question that I have really was
12 just with regard to the numbers. You would, back then
13 at the Public Advocates Department, would take about
14 20,000 inquiries a year or so from about --

15 MR. BRANNIGAN: That one Office of Citizen
16 Complaints.

17 CHAIRMAN VESPA-PAPALEO: At the Office of

18 Citizen Complaints, that would be 20,000 complaints or
19 inquiries for a population of 8 million potential
20 victims?

21 Now, here at the Division of Civil Rights,
22 there are about 3,200 potential victims, people who
23 actually are in civil unions who compromise a potential
24 victim pool. Eight people filing formal complaints out
25 of 3,200 seems like a much greater percentage than
0084

1 20,000 people out of an 8 million person pool.

2 MR. BRANNIGAN: Numbers are numbers, and it
3 wasn't probably 8 million then. The population was
4 probably closer to 7 million, I believe.

5 CHAIRMAN VESPA-PAPALEO: Let's say the
6 population was 5 million --

7 MR. BRANNIGAN: You have to separate minors
8 and children, you have to separate children outside of
9 that.

10 CHAIRMAN VESPA-PAPALEO: What I'm saying is
11 that the numbers really don't tell the full story,
12 necessarily, all the time.

13 This is very helpful for you to share with
14 us on how the Department of Public Advocate
15 differentiated between different types of contact with
16 the public, because that's something I think every

17 agency should be doing.

18 And it was really interesting to hear from
19 you about how you also did public outreach education to
20 the public about the potential rights and to come to the
21 Public Advocate. And I have to say, that's
22 unfortunately one of the pieces that, at least at the
23 Division of Civil Rights, when the legislature created
24 the Civil Union Act did not get a single dime, a single
25 staff member.

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1 MR. BRANNIGAN: You mentioned that to me and
2 I said that was unfortunate. One of the most important
3 things is to educate people about what the Law is and to
4 help people.

5 The other thing that I want to leave you
6 with is that complaints are early warning signals. When
7 you get complaints, you have to listen to them and find
8 out why it was caused. Oftentimes, you'll go down and
9 you will find something that's not right.

10 People -- agencies shouldn't look at
11 complaints as negative and bad, that it's like a
12 temperature. It's your body telling you that something
13 is wrong. When you're getting complaints, you have to
14 pay attention and look and say, "Why are these
15 complaints coming forward to us?"

16 It might be that you don't have a computer
17 system or a telephone system. One of our biggest
18 complaints was people not being able to reach agencies
19 on the telephone. They would say, "I made calls all day
20 long and no one ever -- I couldn't get through." It's
21 important.

22 Complaints are an important data set for an
23 organization to look at, to help them figure out what
24 they ought to be doing.

25 CHAIRMAN VESPA-PAPALEO: If I may ask, Mr.
0086

1 Brannigan, I'm sure we can even talk about this
2 off-line, but I would love to work with you on behalf of
3 the Division of Civil Rights, to be a partner with your
4 organization on helping to get the word out to those
5 equal in this state that have not gotten information on
6 their rights under the Civil Union Law. If you would
7 like to take me up on that, I would be very interested
8 in doing that. Since we have no money to do outreach,
9 maybe we can all share our contacts.

10 MR. HYLAND: Patrick, one other question.

11 You heard the testimony from John, who works
12 at the Star-Ledger, who indicated --

13 MR. BRANNIGAN: I heard you giving him good
14 advice.

15 MR. HYLAND: I did give him advice urging
16 him to file a formal inquiry and get a formal answer, so
17 that he could take appropriate steps going forward.

18 I think what I also heard there is a
19 reluctance to go forward with that formal step, even
20 with the advice that we were giving him to do so,
21 because of his concern that it would have an impact upon
22 his job, his future with the Star-Ledger, his ability to
23 retire with benefits for himself and let alone for his
24 partner and all.

25 I mean, you have to factor in, I think, that

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1 what you were dealing with were people who were
2 complaining to your organization -- for the most part,
3 they were people who were complaining about different
4 agencies in New Jersey because they were not affected in
5 the way that this gentleman would have been affected.
6 They were less reluctant to make a formal complaint or
7 to even, basically, raise the issue at all.

8 MR. BRANNIGAN: I think people are always
9 reluctant when they feel vulnerable.

10 Certainly, anyone working for the
11 Star-Ledger should feel vulnerable, with the potential
12 layoffs and the closing of the paper and everything.

13 In the Public Advocate, we guarantee

14 confidentiality to people. When we would go forward
15 with complaints, if necessary, we would redact who the
16 individual was. There was always fear that there would
17 be retribution taken against them, especially from the
18 regulatory agency. I think people who bring forward
19 complaints, no matter where or when, there's going to be
20 -- what's the unintended consequence that might happen?

21 CO-CHAIRMAN BLUSTEIN-ORTMAN: Thank you, Mr.
22 Brannigan.

23 MS. RAKSA: I need to ask one question.

24 Thank you for referring us to the website
25 that you cited in your testimony. Does the website also
0088

1 serve as your repository or are you aware of any reports
2 concerning the Civil Union Laws specifically that would
3 be referenced?

4 MR. BRANNIGAN: No, our website's a little
5 primitive, so that's it's pretty much one-way
6 information going out. It's not an interactive website.
7 Some of the others might be, but ours is not. We have a
8 lot of information on it.

9 MS. RAKSA: Thank you.

10 MR. GOLDSTEIN: I will depart in a few
11 minutes, literally, from the convention.

12 I just personally want to thank Patrick, who

13 has done outstanding work over the years, and the
14 Catholic Conference at the Bishop's Across -- the
15 Catholic Bishop's Across New Jersey, as well as the
16 Archbishop, have done wonderful work for social justice.
17 We thank you and those wonderful people whom you work
18 with.

19 MR. BRANNIGAN: Actually, I complained about
20 Steven once.

21 MR. GOLDSTEIN: They don't want to know
22 that, this is a Commission. I just wanted to thank you
23 --

24 MR. BRANNIGAN: At Senator Lesniak's
25 Coalition Against Bigotry and Hatred. I wanted Steven
0089

1 to stand next to me, and he was standing on the other
2 side of the room, so I mentioned that I wanted to give
3 the signal to the media and others that people who
4 disagree fundamentally on marriage, yet have respect for
5 each other could work together, as I do have great
6 respect for Steven. He said that he'd stand next to me
7 the next time.

8 MR. GOLDSTEIN: I'm sitting out.

9 CO-CHAIRMAN BLUSTEIN-ORTMAN: We respect
10 your work and your willingness to testify here today,
11 thank you.

12 CO-CHAIRMAN BLUSTEIN-ORTMAN: Audrey and
13 Robin Bazlin-Weglarz?

14 Thank you so much for your patience.

15 ROBIN BAZLIN-WEGLARZ: My name is Robin
16 Bazlin-Weglarz.

17 AUDREY BAZLIN-WEGLARZ: I'm Audrey
18 Bazlin-Weglarz.

19 ROBIN BAZLIN-WEGLARZ: We, like the
20 Brunners, are a legal same-sex couple. We did get
21 married six months before I had my surgery.

22 In essence, we did it because we didn't want
23 to be unionized. The general perception out there is
24 that although the state says that it's the same as a
25 marriage, the general perception among the public is

0090

1 that it's not.

2 We feel our love, when we were a man and
3 woman, is the same as it is today. Just because I had
4 an operation doesn't change the fact that we are very
5 happy together, and we want to be legally married
6 together. It's the same thing if I had my foot cut off,
7 it doesn't change anything. We are who we are. Love
8 knows no gender.

9 Until the general perception changes out
10 there, nothing is going to happen. People are still

11 going to view, "Oh, you're a civil unionized," or
12 "You're a gay couple, you're less than a married
13 couple." It's very important for us to be a married
14 couple. She refers to me as her wife and I refer to her
15 as my wife. We don't want that to change. We are very
16 frightened of some of the attitudes in this country
17 among the very right-wing people who could challenge our
18 marriage some day. Once it gets into the courts, it's a
19 gamble. We just don't want it to change. I think
20 everybody should be entitled to live with who they wish
21 to live with and be married to who they wish to be
22 married to.

23 If they challenged our marriage and we lost,
24 and we become civil unionized, then we do lose our
25 rights to file federal income tax, we lose our federal

0091

1 benefit rights. Yeah, we're okay in New Jersey, but if
2 we decide to retire to another state, will we be
3 recognized?

4 I really think you need to change this from
5 civil union to marriage. It's a legal marriage. If
6 churches don't want to recognize our marriage, that's
7 each individual church's decision. There should be a
8 difference between a legal marriage and a religious
9 marriage.

10 Basically, that's what we have to say.

11 MR. HYLAND: You were married in New Jersey?

12 ROBIN BAZLIN-WEGLARZ: Yes, we were.

13 MR. HYLAND: I'm just curious as to whether

14 or not you've -- you have filed your federal taxes as

15 married?

16 ROBIN BAZLIN-WEGLARZ: Yes, we have.

17 MR. HYLAND: Have there been any issues with

18 the IRS on that?

19 ROBIN BAZLIN-WEGLARZ: None whatsoever, not

20 with the social security. We've had no problem with

21 anybody, as long as it's considered a legal marriage.

22 CO-CHAIRMAN TAYLOR: If I could -- I'd like

23 to get to the context of the legal marriage. Were you

24 born Robin?

25 ROBIN BAZLIN-WEGLARZ: No, I was born

0092

1 Robert.

2 CO-CHAIRMAN TAYLOR: Is Robin identified in

3 the federal system as a woman?

4 ROBIN BAZLIN-WEGLARZ: Now, it is, yes.

5 CO-CHAIRMAN TAYLOR: It just -- by somehow

6 it happens they have not realized that Robin is married

7 to Audrey and that they're two women in a marriage?

8 I'm trying to figure out how has the

9 legality of it stayed in place, when by design the
10 marriage, according to state laws, should be illegal?

11 ROBIN BAZLIN-WEGLARZ: But we were married
12 legally.

13 CO-CHAIRMAN BLUSTEIN-ORTMAN: And it hasn't
14 been undone?

15 CO-CHAIRMAN TAYLOR: But you were married
16 legally as?

17 ROBIN BAZLIN-WEGLARZ: Man and woman, yes.

18 CO-CHAIRMAN TAYLOR: It's just that Robin
19 hasn't caught up to Robert?

20 ROBIN BAZLIN-WEGLARZ: From what I gather
21 and stuff that I've read, transgender couples have never
22 been penalized yet, as long as they're considered
23 legally married. This goes across the whole country.

24 CO-CHAIRMAN TAYLOR: I'm trying to make sure
25 that I get to -- because there was a question that I

0093

1 wanted to ask Denise earlier.

2 Transgender legally married couples haven't
3 suffered any repercussions, yet. Is there still -- and
4 that means systemically, that all of the entities and
5 municipalities are honoring you as a woman or is it just
6 that they still, for blindness sake, are suggesting that
7 there's a Robert somewhere?

8 ROBIN BAZLIN-WEGLARZ: Social security
9 recognizes me as a woman now, and they recognize the
10 fact that we're married. That hasn't changed.

11 AUDREY BAZLIN-WEGLARZ: I think it's because
12 there is no precedent set.

13 ROBIN BAZLIN-WEGLARZ: Nobody has really
14 pushed it, but it does leave us open to somebody one day
15 challenging us.

16 CO-CHAIRMAN TAYLOR: I don't think that --
17 if I could, I'm trying to beg the question, which is --
18 it's not really I'm trying, because you two have the
19 wonderful distinction of being able to be a married
20 couple. You get to say, "We are legally married." You
21 get to say, "She's my wife. She's my wife." Because
22 the legal precedent is not there across the country,
23 somebody gets to say you're both women and the state
24 doesn't recognize it. Then you have to be thrown back
25 into Robert married her, and not Robin.

0094

1 ROBIN BAZLIN-WEGLARZ: Right, it's a whole
2 --

3 AUDREY BAZLIN-WEGLARZ: There's a loophole.

4 CO-CHAIRMAN TAYLOR: Some person looking at
5 you could dismiss you and say, "You're wives." "Oh, but
6 I married her as a man, so there's my transgender coming

7 up again as opposed to me just being able to be Robin."

8 ROBIN BAZLIN-WEGLARZ: We had planned to get
9 married in Massachusetts because we have a lot of
10 friends up there; however, we didn't want the
11 distinction of "Well, you're married in Massachusetts.
12 That's okay, because you're two women."

13 We did marry in New Jersey so that it would
14 be -- well, it's legal in New Jersey, and it had to be a
15 man and the woman so we had to make that distinction.

16 CO-CHAIRMAN TAYLOR: So you were able to use
17 the blindness of the Law to your advantage?

18 ROBIN BAZLIN-WEGLARZ: Yes, I was. I feel a
19 little kind of funny having played the games, but
20 sometimes you're put in a position where you have to
21 play the games.

22 MR. HYLAND: So what it sounds like we're
23 looking at here is we need some form of clarification of
24 your status as a married couple in New Jersey, just as
25 there's case law out there that says that if a same-sex
0095

1 couple one, undergoes a sex change, they can marry the
2 same as a heterosexual couple and are viewed as a
3 heterosexual couple by the Law.

4 What we really need is some clarification,
5 either statutory opinion or something like that probably

6 -- preferably statutory, that recognizes that a couple
7 who legally marries in New Jersey and then undergoes --
8 one of them undergoes a sex change, are they still
9 married under New Jersey Law?

10 ROBIN BAZLIN-WEGLARZ: Yes, you would need
11 some kind of clarification. My feeling is that in New
12 Jersey, everybody is legally married, whether you're
13 same-sex or not.

14 MR. HYLAND: That's another way of getting
15 that clarification. There's two ways of getting
16 clarification, through case law or statute law or
17 something.

18 ROBIN BAZLIN-WEGLARZ: Once we get in the
19 courts, there's no --

20 AUDREY BAZLIN-WEGLARZ: Right now, we're
21 running the risk of our legal marriage being undone.
22 It's a scary, scary cloud to be living under.

23 CO-CHAIRMAN TAYLOR: Right now, you live
24 under the cloud of your marriage being undone, and every
25 day in order to explain your marriage, you're propelled

0096

1 back into --

2 ROBIN BAZLIN-WEGLARZ: Just recently, we
3 went to get a mortgage and says, "There's a minor
4 mistake here. It says that Robin is a female, I'll just

5 change that to a male." No, wait a minute, we can't.

6 CHAIRMAN VESPA-PAPALEO: So it sounds like

7 -- I guess it follows with what Stephen Hyland was

8 saying.

9 The simplest way to fix this, rather than

10 making statutes and new regulations and advisory

11 opinions, is that if the Law just says marriage can be

12 either between a man and woman or between two women or

13 between two men, that's the resolution?

14 ROBIN BAZLIN-WEGLARZ: As long as there's no

15 distinction between the genders.

16 CHAIRMAN VESPA-PAPALEO: Can I ask you a

17 question?

18 One of the things that we need to know as a

19 Commission is, has -- it sounds like you said social

20 security has recognized your relationship and has not

21 given you trouble or denied you anything to date, so

22 far.

23 Has anyone else that you've -- that knows

24 about your situation been negatively impacted by you now

25 being two women married in the State of New Jersey? Has

0097

1 anybody been hurt by the fact that you are now --

2 ROBIN BAZLIN-WEGLARZ: Not hurt, but my

3 daughters are always very hesitant to tell people about

4 our relationship. I have two daughters, one's 21 and
5 one's 24. They're very hesitant, because they're never
6 sure how people are going to react to it. It's touchy
7 for them.

8 CHAIRMAN VESPA-PAPALEO: Has anyone beyond
9 your children pointed to your situation and used it as
10 an example of a reason for why straight couples are now
11 divorcing? Because --

12 ROBIN BAZLIN-WEGLARZ: Not to our knowledge.

13 CHAIRMAN VESPA-PAPALEO: That's kind of what
14 I'm getting at.

15 I read about how same-sex couples,
16 regardless of their gender at birth and later on, and
17 any transition issues and so on, that same-sex couples
18 entering on into a marriage would destroy traditional
19 marriage. I am trying to get an example of a
20 traditional marriage that's been destroyed by --

21 AUDREY BAZLIN-WEGLARZ: I think the
22 destruction of a marriage is something that occurs
23 within that marriage. I can't foresee any outside
24 influences.

25 CHAIRMAN VESPA-PAPALEO: How long have you
0098

1 been married now in New Jersey?

2 ROBIN BAZLIN-WEGLARZ: Two and a half years.

3 We got specifically married six months beforehand.

4 MS. CASBAR-SIPERSTEIN: I just wanted to
5 make a comment and a question.

6 In view of the testimony that was submitted
7 in writing by a Leslie Farber, who spoke about couples
8 and, evidently, based on her testimony and her
9 experience in other jurisdictions, that you can get
10 married right now under your current situation in states
11 like Texas and Kansas, would that be something that you
12 might consider if New Jersey does, with this cloud
13 having a negative effect, would you leave to go to
14 Texas?

15 ROBIN BAZLIN-WEGLARZ: Texas is the last
16 place that I would choose to go.

17 It starts opening up a problem. Do you have
18 to go to every state in order to be married and get
19 married again in every state and why should that be?

20 Okay, I want to move to New York. We talked
21 about retiring up to the Finger Lakes of New York. New
22 York's Governor Paterson just said that he will
23 recognize same-sex marriages from out of state, but he
24 doesn't say anything about same-sex unions -- civil
25 unions. So now how do we work it? Do we have to go to
0099

1 Massachusetts and legally marry there and then come back

2 and move to New York so we can live our lives and get
3 all the benefits? Heterosexual couples don't have to
4 run around and get married in each state.

5 MR. HYLAND: There's always going to be
6 these questions.

7 I think for purposes of New York, you would
8 be considered married in that state.

9 I guess a question that I would have is, the
10 fact that you're a legal same-sex couple in New Jersey,
11 do you think that that's had an impact on global
12 warming?

13 CO-CHAIRMAN TAYLOR: One of the things
14 that's of a real concern to me, and I think that it's --
15 we've heard from families and we've heard economic
16 impact and so many other impacts in this, and just
17 having the opportunity to hear from two legally married
18 same-sex couples who both have the distinction of having
19 a transgender partner in the relationship, but you were
20 married before your transition, and so this is just a
21 real emotional question for me, do Audrey and Robin have
22 wedding pictures?

23 ROBIN BAZLIN-WEGLARZ: Yes. We had two
24 marriages, and we have wedding pictures from both.

25 CO-CHAIRMAN TAYLOR: The one that allows you

0100

1 to stay hitched doesn't involve you, and the same for
2 Denise and Fran. In order to make sure that you were
3 sealed together, you had to document the fallacy so that
4 you could move forward?

5 ROBIN BAZLIN-WEGLARZ: Yes.

6 CO-CHAIRMAN BLUSTEIN-ORTMAN: Thank you for
7 your patience in waiting until we could call on you.

8 ROBIN BAZLIN-WEGLARZ: Thank you for having
9 us.

10 CO-CHAIRMAN BLUSTEIN-ORTMAN: Reverend
11 Robert and Ed?

12 Welcome. Would you spell your names?

13 REV. KRIESAT: K-R-I-E-S-A-T, first name
14 Robert.

15 MR. MATHER: Ed Mather, M-A-T-H-E-R.

16 REV. KRIESAT: First of all, let me just
17 indicate that I am a Lutheran Pastor here in the State
18 of New Jersey. I have been ordained since 1965 and have
19 done all my Ministry here in New Jersey. I am now
20 retired from the Ministry, which gives me a lot of time
21 to do things that I haven't done before.

22 One of those things is to officiate at a lot
23 of same-sex civil unions. My way of dealing with that
24 is the same way that I deal with couples that come to me
25 for marriage. I meet with them, I talk to them, I go

0101

1 over the whole process of the ceremony and the things
2 that are involved in living together as two individuals.

3 Invariably, in the course of that
4 discussion, the use of the term marriage versus the use
5 of the term civil union comes up. It's just a natural
6 part of it. It would be so much easier on my part, for
7 one, to simply use the word marriage to cover what, in
8 fact, in my mind and in the minds of the couples that
9 I'm talking to is a reality. They're talking about
10 marriage, I'm talking about marriage, but according to
11 the legal documentation that they have, it's called a
12 civil union.

13 Where this causes more problems is for the
14 couple themselves. When they have to describe this to
15 their families or when I'm talking to their families
16 that are gathered there for the ceremony, it's being
17 able to refer to what they all know from what they see
18 and hear, because what I do and say is not all that
19 different from what I would do and say with a straight
20 couple that is there for a marriage ceremony. We always
21 have to be careful with the wording that we're using.
22 To me, it would be so much easier.

23 I've worked with words for my whole
24 Ministry. Words are important, names are important, and

25 the things you call something is very important.

0102

1 Calling a relationship that, for all intents and
2 purposes is a marriage. Calling it something less than
3 that, I think, is just downright dishonest, if nothing
4 else. It puts an emotional burden on the individuals
5 involved.

6 Ed and I are civil unioned. Just having to
7 get my mouth around that to say it right that we're
8 civil unioned, it would be so much easier to simply say,
9 "We're married." My family still says that, and then
10 they look at me and they kind of wink or something
11 because, "They can't really use that, because they're
12 not really married."

13 My main reason for being here is to
14 encourage you as a Commission, who are hearing all of
15 these kinds of things, to give serious consideration to
16 hearing from couples who are involved in this and the
17 burden that this places on them in all of the other
18 areas that you've heard of, taxation and that kind of
19 stuff, but the personal kinds of things. How it affects
20 their family, their life together, and the words that
21 you use to call their relationship something other than
22 what it is. Separate is not equal. We're saying in New
23 Jersey, under the Civil Union Law, that it's equal to

24 marriage. If it is, if it walks like a duck, talks like
25 a duck, call it a duck.

0103

1 I'm here to encourage you -- I don't know if
2 Ed wants to, he doesn't get a chance to talk all that
3 often.

4 MR. MATHER: Only after I've had a couple of
5 scotches.

6 I'm Ed Mather. I'm also retired. Robert
7 and I will be together 40 years next March, so we have
8 quite a long relationship.

9 I worked at Bergen Community College in
10 Paramus for 34 years. I retired two years ago, and
11 while I was there, I was an advisor to the gay/lesbian
12 club. I had quite a bit of contact with the youth. To
13 me, as much as they aggravated me in the club meetings,
14 that's the future of the country. They really
15 questioned when we discussed about Massachusetts. When
16 I was still working as the club advisor, Bob and I
17 entered into a domestic partnership. When I explained
18 it to them, they didn't see the reason to it.

19 I give a gay/lesbian scholarship every year
20 to one of the graduating students. This past year, I
21 gave it to a lesbian graduate who has two mothers.
22 They've been together, I think, for 18 years. She wrote

23 me a great letter and in it she said how frustrated she
24 was that she can't refer to her two mothers as being
25 married, that she has to explain what they are. She
0104

1 said, "I'm always trying to explain, yes, it's just as
2 good as your parents. Their relationship is just as
3 good as your parents." I did see it from the youth's
4 viewpoint.

5 MS. BENSON: I just have a question.

6 The Commission is charged to study all
7 aspects of the Civil Union Act, and one of those is to
8 determine whether additional protections are needed.
9 You are -- you've been together for 40 years, you're
10 civil unioned, do you need any additional protection?

11 MR. MATHER: Legal protection?

12 MS. BENSON: Isn't that enough?

13 MR. MATHER: Marriage should -- a
14 relationship is just not legal protection. It's also
15 respect, mutual respect.

16 While the Commission may be charged with
17 making sure that you're ensuring the legal equal
18 protections, I think for the actual couples who are
19 involved, the equal respect and recognition of your
20 relationship is equally important. I don't think that
21 it will change our -- legally change our relationship.

22 Before we even were domesticated or
23 civilized, we had all of these legal papers drawn up,
24 which, unfortunately, we had to do. I don't think the
25 term -- is the term married going to give us more legal
0105

1 protections? I'm not a lawyer, I don't know, I don't
2 think so. We're not doing it for that reason. It will
3 -- I don't feel equal and equality is not just legal
4 rights, I don't think.

5 MS. BENSON: You don't think that the Civil
6 Union Act has been effective in affording you the
7 dignity that you believe that you're entitled to?

8 REV. KRIESAT: I think that's kind of the
9 bottom line, the legal protections that it affords.

10 You've been hearing how it's supposed to be
11 equal to marriage in New Jersey and those kinds of
12 things. There is that other status that gives you a
13 feeling of dignity when you can say and use the same
14 term that everybody else uses to define a relationship,
15 that almost everybody knows what that term means.

16 It took me awhile, personally, to get to the
17 point where I was even comfortable thinking in terms of
18 marriage, because I was brought up like everybody else
19 with the certain view of what marriage was. I began to
20 realize that that's the only word that people understand

21 right away, you don't need to explain everything.

22 I went to visit Ed on his campus one time,

23 and we spent this long time talking to this other

24 faculty member. I was introduced as Ed's partner.

25 After maybe 25 minutes to 45 minutes, she wanted to know

0106

1 what business we were in. I wasn't wearing this

2 (indicating), so she didn't know. We had to explain

3 what kind of partner and she said, "Oh!" If we could

4 have said right off the bat we're married, whether she

5 liked it or not, that was her determination, but we

6 would have been clear.

7 We don't want to have to say it without the

8 fact being present that our piece of paper will say we

9 are, in fact, married and the State of New Jersey

10 recognizes that fact and calls it what it is. That's

11 what I saw this Commission wrestling with, to see if we

12 can get to a point where we can call it what it really

13 is.

14 MS. BENSON: It would clarify for other

15 people the status of your relationship?

16 REV. KRIESAT: It would clarify it for other

17 people and it would add recognition to your own.

18 CO-CHAIRMAN TAYLOR: For purposes of the

19 context of this conversation, I really don't want to

20 skim over, "We've had a bunch of legal papers drawn up."

21 I'd really like, for the record, to hear all of the

22 additional expenses that you had to incur to draw up

23 documentation that is an aid in marriage.

24 My concern was documentation. If there was

25 a child or family member involved, the lawyers would get

0107

1 to go into courtrooms with documents.

2 MR. MATHER: You don't travel with all of

3 these documents.

4 CO-CHAIRMAN TAYLOR: What are they?

5 MR. MATHER: We did the medical power of

6 attorney, and all the -- about all of our assets, all of

7 the extra protections with the will and disclaimers. It

8 was a number of years ago, I don't know remember how the

9 lawyers made their money on the documents. I don't know

10 what they all are. It was about five or -- I don't

11 remember all the documents. It cost about \$600.

12 MS. O'LEARY: Was this after your civil

13 union?

14 MR. MATHER: Prior to the civil union.

15 CO-CHAIRMAN BLUSTEIN-ORTMAN: My question is

16 to you Bob, as a fellow clergyman, and I haven't asked

17 this question of any of the clergy that have testified

18 before the Commission up to this point, but I'm

19 wondering if you would speak for a moment about
20 impositions that become explicit upon you by a Civil
21 Union Law that curb, form, structure, your capacity to
22 minister to couples who would like to have their lives
23 joined in the kinds of ceremonies that we're talking
24 about? Is that an understandable question?

25 REV. KRIESAT: Yes.

0108

1 I would think that most cases -- if a couple
2 came to me, a same-sex couple, and said specifically
3 they want a marriage, I would have to tell them that I
4 can't do a marriage, but I can do everything else. The
5 whole ceremony that I use is almost identical to a
6 marriage, but if I'm functioning as an agent of the
7 state or something like that and I have a legal document
8 in front of me that says that it's a license for a
9 marriage/civil union, I can do only the civil union for
10 that couple. That's about the only --

11 CO-CHAIRMAN BLUSTEIN-ORTMAN: Is that an
12 infringement on your rights as a clergy person to
13 perform Ministry for the people you serve?

14 REV. KRIESAT: It could be a part of this.

15 I have to speak, also, as a person who's a
16 pastor of a particular denomination that is wrestling
17 with that issue right now. While I would love to be

18 able to say that my denomination says that I'm free to
19 marry whomever I want, that's not the case. I have a
20 responsibility within the denomination, even though I
21 have been known to have done things outside of what my
22 denomination would approve of. It is a constricting
23 kind of thing. I would love to be able to say that, as
24 far as that statement is concerned.

25 CO-CHAIRMAN BLUSTEIN-ORTMAN: If your
0109

1 denomination were accepting, then it would be the state
2 that would be limiting you?

3 REV. KRIESAT: Yes.

4 CO-CHAIRMAN TAYLOR: Frank, before your
5 question -- I have almost the exact same question.
6 Ministerially, when you are counseling a same-sex couple
7 and talking about constraints, so you feel or are you
8 compelled to kind of let them know the other part that's
9 not a part of your Ministry? That this is only a civil
10 adjoining -- you're not covered the same way? So
11 because of the couple, you don't have to imply that kind
12 of information?

13 REV. KRIESAT: When I meet with a couple,
14 the ceremony that I use, whatever prayers or scriptures
15 or anything else that I use, is the same as marriage.
16 I've told some friends that, "Unless -- if this is okay

17 with you, this is going to be a religious ceremony. I
18 am not a justice of the peace or something else. This
19 is going to be a religious ceremony." For some people,
20 they don't want that. That's fine, I have no problem
21 with that. I'm not bound.

22 CHAIRMAN VESPA-PAPALEO: I just had one
23 question, Reverend.

24 Do you communicate at all with other clergy
25 in Massachusetts, California, or Connecticut or Canada
0110

1 that have performed same-sex marriages? If so, I'm
2 getting to the question of your comments about the word
3 marriage would bring dignity to your relationship,
4 something that civil union does not have. I want to
5 know if you have those communications with other
6 Ministers who can marry legally people in other
7 jurisdictions, whether they have felt that they can help
8 bring dignity to the relationships of those before them?

9 REV. KRIESAT: I can't say that I have.
10 I've read stuff, but I haven't had personal
11 conversations.

12 CO-CHAIRMAN BLUSTEIN-ORTMAN: Can I speak as
13 a witness perhaps at this point, rather than a
14 Commissioner? Because I operate within a religious
15 association in which full marriage is accepted, and my

16 colleagues in the states where marriage is legal
17 absolutely proclaim that the dignity provided within
18 their ceremonies is of greater -- what word do I want?
19 It's of greater in tact -- the in tact nature of the
20 dignity is just one in the same as marriage with no
21 distinction. Their power in that situation is to confer
22 the blessings of the Church with the vested interest of
23 the state spoken as well.

24 MR. HYLAND: The question that I would have
25 is, I'm not aware of anything in State Law that
0111

1 specifically says that you, as a clergy person, can't
2 use the term marriage, even though what you're signing
3 is a certificate of a civil union, as opposed to a
4 marriage license.

5 REV. KRIESAT: There may not be, but I think
6 for me, it's just a question of honesty. It's not what
7 I'm doing. It's what I would like to do, but it is not.

8 MR. HYLAND: In the Lewis Decision, there's
9 language by the Supreme Court that says, "We are
10 entitled to read this and refer to ourselves in any
11 language that we want."

12 MR. KOMOSINSKI: I was just going to speak
13 to Stephen's point that, again, the instruction in the
14 legal and vital statistics -- and we often give

15 information to mayors and others that are marrying,
16 again, the couple can refer to themselves as married or
17 spouses or whatever terminology that they want; however,
18 in the end, the civil union document is what is
19 registered. They do have that authority to use whatever
20 terminology they prefer.

21 CO-CHAIRMAN BLUSTEIN-ORTMAN: Thank you very
22 much. Good to see you again.

23 (Whereupon, a brief recess was taken.)

24 CO-CHAIRMAN BLUSTEIN-ORTMAN: Let's call it
25 to order.

0112

1 Ms. Stahl has been called to testify. I'm
2 sorry, but I don't know your first name, and I don't
3 know if our reporter does.

4 MS. STAHL: Laurin, L-A-U-R-I-N. Stahl,
5 S-T-A-H-L.

6 CO-CHAIRMAN BLUSTEIN-ORTMAN: Welcome.

7 MS. STAHL: Thank you.

8 CO-CHAIRMAN TAYLOR: Is Barbara still with
9 us?

10 MS. ALLEN: Yes, I'm still here.

11 CO-CHAIRMAN TAYLOR: We're taking the last
12 two testimonies.

13 MS. ALLEN: Okay.

14 MS. STAHL: The main reason why I'm here is
15 it fits in with the previous testimony. The Director of
16 the Division of Civil Rights said that there were five
17 open cases that were filed to verify the complaints and
18 three closed, that makes eight cases.

19 I'm one of the people that filed a case with
20 the Division of Civil Rights. Unfortunately, my case
21 was lost. I have contacted the investigator that I
22 filed the case with, Aldo Gonzalez, at the southern
23 office down in Camden; his supervisor, Diane Miller;
24 Gary LoCassio, who is the Assistant Director of the
25 Division of Civil Rights. I've contacted the Director,

0113

1 and I've also e-mailed the Attorney General.

2 CO-CHAIRMAN TAYLOR: Ms. Stahl, pardon me
3 for a moment.

4 For clarity in your testimony, when you say
5 lost, you don't mean not won, you mean misplaced?

6 MS. STAHL: I mean it doesn't exist,
7 according to the Division of Civil Rights.

8 My question is, how many cases were, in
9 fact, reported to the Division of Civil Rights? I don't
10 know, because I can tell you that there's one
11 outstanding that has not been counted.

12 The complaint that I actually filed is trite

13 compared to the systemic issue here. The complaint that
14 I filed was, I didn't understand why I had to pay to be
15 -- to pay twice to be legally bound to the same woman.
16 I paid for the domestic partnership, that was \$28. I
17 paid for the civil union. When the state eventually
18 does pass marriage, which we will, I assume that I will
19 have to pay for that.

20 Along with that, it's my understanding that
21 those monies go to the Department of Children and
22 Families to handle domestic violence cases. I don't
23 think any money is set aside to specifically handle
24 domestic violence cases in the LGBTQI community. I know
25 that there are incidences of that, because I'm a

0114

1 survivor. I absolutely know that there's a need to put
2 resources into dealing with that. Again, very important
3 concerns; however, trite compared to losing a case.

4 I went there, and I filed two cases. One is
5 an employment case, and that doesn't concern this
6 Commission. That one I decided to verify a complaint on
7 with Mr. Gonzalez. I said, "What about this one?" I
8 filled out the same paperwork for both cases. Mr.
9 Gonzalez said, "I'll handle that." Well, it hasn't been
10 handled. As I've said, I've e-mailed everybody from Mr.
11 Gonzalez through the Director of the Division of Civil

12 Rights to the Attorney General herself. The case is
13 still among the missing.

14 CO-CHAIRMAN TAYLOR: So, again, for purposes
15 of your testimony, you have attempted to file two
16 separate cases. Case 9 and case 10 were both because
17 you made the point that they were cases filed on the
18 same person or at least two people with the exact same
19 name? You're saying two separate cases?

20 MS. STAHL: No, I went to the Division of
21 Civil Rights, and I filed two cases at the same time.
22 One was an employment matter, and the other one was a
23 civil union matter.

24 The employment matter, I don't think that
25 this Commission concerns themselves with that, because
0115

1 it is not a civil union concern. I'd love to tell you
2 my tale there. It's been something that's been going on
3 for seven years now. That's not what this Commission is
4 for. If you want to convene on employment issues, I'm
5 happy to spill the beans on that. That's a real concern
6 for me.

7 When the gentleman in the Public Advocates
8 Office that worked there before said that there were
9 concerns with people stepping forward, it really does
10 put you at risk.

11 I can also tell you when I started with
12 filing complaints with the Division of Civil Rights in
13 2002, the response that I got from the supervising --
14 the woman that was in charge of intake said, "Aw, your
15 little feelings were hurt and now you're upset." I can
16 see why people don't step forward, because you go to a
17 place where you feel that you're going to get some
18 positive results, and instead you're hit up against a
19 brick wall and you're hurt further, you're
20 re-victimized. I certainly understand why people don't
21 step forward. I praise the folks that do have the
22 strength to do that and are willing to step forward for
23 those that can't or for what reason or another. You
24 know, that really was the flux of why we're here.

25 I think also, once we do pass marriage, I

0116

1 would encourage this Board to be able to say to our new
2 administration, "Let's move forward. You've made some
3 promises, let's do it." Have New Jersey really be in
4 the forefront. I think it would be awesome.

5 MR. HYLAND: What was the basis for the
6 civil union-related complaint?

7 MS. STAHL: It was the fact that I had to
8 pay -- the fact that I had to pay for domestic
9 partnership status, and also for the civil union, and

10 then assuming I'll have to pay for the marriage license
11 once that becomes legal.

12 Also, the fact that I don't think that
13 there's any money set aside to handle LGBTQI domestic
14 violence issues, because the money is coming
15 specifically from the LGBTQI community. Since the money
16 goes towards the domestic violence services, I don't
17 think they set aside money for that. I think there's a
18 great need.

19 MR. HYLAND: In other words, that it's
20 pooled and not specifically directed towards one
21 community or another?

22 MS. STAHL: I'm not saying that we have to
23 say, "Well, a certain percentage of money comes in from
24 the LGBTQI community, so that percentage goes to those
25 sorts of services." I'm saying that there is a need --

0117

1 this money is coming from a greater population. Let's
2 serve the greater population, which is, in essence, what
3 we're talking about here.

4 MS. CASBAR-SIPERSTEIN: I was wondering, and
5 again, it goes back to perhaps the prior testimony by
6 the person who formally worked for the Public Advocate,
7 as far as complaints. I don't know whether in the
8 reaction that you said that you had from one of the

9 people at the Division of Civil Rights was --

10 MS. STAHL: That was in 2002.

11 MS. CASBAR-SIPERSTEIN: In 2002, so this was
12 before there were domestic partnerships or before civil
13 unions?

14 MS. STAHL: I think it might have been
15 before both.

16 The person still works there though, so that
17 person could also be addressing these issues.

18 MS. CASBAR-SIPERSTEIN: So it was the
19 reaction by this person working for the government,
20 because you were perceived or they recognized that you
21 were a part of the LGBTQI community? Is that what was
22 --

23 MS. STAHL: It's hard to say, because said
24 person also came out to me at the same time.

25 MS. CASBAR-SIPERSTEIN: What I'm trying to
0118

1 -- whether you feel that people in a class that perhaps
2 have been stigmatized -- historically stigmatized as
3 part of society -- I can't think of the right word.
4 Constitutionally stigmatized, whether you feel that
5 they're less likely to complain to a government that
6 they feel may not --

7 MS. STAHL: Based on my result, I would

8 think that many a person will say, "What's the point?"

9 Again, I have to relay this to the
10 employment issue that I have where I've been dealing
11 with this for seven years now, and there has been no
12 satisfaction. There's only been further harassment and
13 discrimination and retaliation.

14 People have watched what I've gone through,
15 so given that, why would somebody complain about a civil
16 union issue when it's not going to affect their
17 employment? In fact, it could hurt their employment.
18 People see those examples and they say, "You know what,
19 I'm not doing that. I'm not going to torture myself.
20 What would be the point? What would be the outcome? I
21 know what the desired outcome is, but I don't think I'm
22 going to get that outcome; I think I'm going to get a
23 negative outcome. Would somebody else do it?"

24 MS. CASBAR-SIPERSTEIN: So you think people
25 would, in your situation or in a class, perhaps just

0119

1 give up and say, "Why bother?"

2 MS. STAHL: Exactly, I do. I've seen it.

3 MR. HYLAND: I think it's fair to point out
4 that we have heard specific testimony to that effect
5 when we discussed the issue with the Star-Ledger. There
6 was reluctance there to make a formal complaint because

7 of the fear of retaliation or affect upon their career,
8 the remaining time at the Star-Ledger.

9 I think it's clear that there are a number
10 of people, and when we look at the whole issue of the
11 LGBTQI community, what we're seeing is something --

12 CO-CHAIRMAN TAYLOR: Let's try not to
13 testify ourselves.

14 MS. BENSON: Ms. Stahl, did you testify at
15 Blackwood?

16 MS. STAHL: Yes.

17 MS. BENSON: I was just wondering if that
18 was in addition. I do remember you giving testimony at
19 Blackwood.

20 Thank you.

21 CO-CHAIRMAN TAYLOR: Thank you.

22 CO-CHAIRMAN BLUSTEIN-ORTMAN: Thank you very
23 much.

24 MS. BENSON: Thank you so much.

25 CO-CHAIRMAN BLUSTEIN-ORTMAN: Reverend Bruce
0120

1 Davidson; who had evidently communicated with a
2 Commissioner on this panel who did not forward the
3 communication on to the rest of us so that we would know
4 that Reverend Davidson was going to be here this
5 afternoon. Our apologies and our welcome.

6 REV. DAVIDSON: Thank you for your patience
7 and willingness to continue to meet and continue to
8 consider this. I think this is really one of the most
9 important things New Jersey has done in relation to its
10 action on civil unions is to have this Commission
11 looking very carefully at how civil unions are working
12 or not working in the state. I appreciate mostly
13 sitting and listening today and hearing things that I
14 learned for the first time. I hope that they were a
15 benefit to you as well.

16 I want to introduce myself. I'm Bruce
17 Davidson, I'm the director of the Lutheran Office of
18 Governmental Ministry in New Jersey. I'm also a
19 Lutheran Pastor. This must be the Lutheran hour, I
20 guess.

21 I want to speak basically out of three areas
22 of my life. First, as Director of that Office.
23 Secondly, as a pastor in the Church who does pastoral
24 care and counseling. Thirdly, as a person in a civil
25 union.

0121

1 First of all, as Director of the Office of
2 Governmental Ministry, our Lutheran Church has 20 state
3 policy offices. We happen to be one of them. Our
4 function is to represent the official teachings of our

5 church to State Government. Most of the time, it's
6 focusing on issues of hunger and poverty and social
7 justice in those areas, but also in terms of civil
8 rights where we have some very strong positions. As
9 Pastor Kriesat said, we don't have an official position
10 yet on same-sex marriage, that's in the works. It will
11 be debated and discussed this summer. I'm not sure
12 where it will go, but it will go somewhere.

13 We do, however, have a position that
14 understands that there is marriage that the state --
15 they're Marriage Laws that the state adopts. There also
16 is marriage as a church understands it. They don't
17 necessarily have to be exactly the same.

18 We understand that if a state says, "This is
19 our law," then the Law needs to be administered justly
20 and fairly across the board, which I believe is what the
21 Supreme Court of this state said. If indeed you are
22 giving rights to heterosexual couples, they ought to
23 also be extended to same-sex couples. You don't have to
24 call that marriage as I understand the decision, but you
25 could.

0122

1 I think a lot of the testimony that I've
2 heard at Blackwood and today is about just whether or
3 not you can have something that looks like marriage and

4 has the same rights as marriage, but isn't called that.
5 I think what I heard was a lot of discussion about tax
6 implications, property, employment, and pension
7 benefits. All of those things fall, we understand it,
8 in the realm of government. You guys do that better
9 than them at this point in time. That may be debatable
10 in some corners, but that's what the government should
11 be expert at.

12 I'm hearing people say that in those realms,
13 right now civil unions seem to create as much tension as
14 they solve. I think on behalf of our church, I would
15 say that it would be important for the State of New
16 Jersey to consider making sure that those issues are
17 resolved.

18 The other thing that was new to me today
19 that I think is important is that the statement was made
20 that in states where there were civil union laws that
21 then became Marriage Laws, that the number of people
22 that got married tripled over the people that were in
23 civil unions. I thought that that was an interesting
24 statistic. To me, that's a justice issue, because it is
25 people who are, for whatever reason, not maybe being

0123

1 denied rights, but are not having access to rights that
2 they should be able to access.

3 I just want to give a couple of examples out
4 of pastoral care and counsel. It's a little different.
5 I do a number of civil union blessings. Unlike Pastor
6 Kriesat, I don't use the marriage ceremony, because my
7 understanding that what we're doing is not a marriage,
8 yet. My pastoral strategy is to say to people, "If you
9 want to get married, push the state to make it possible
10 for you to do it, and then we'll have a marriage
11 ceremony. Until that time comes, what we'll do is
12 exchange promises and read scripture and pray together,"
13 which is pretty much what we do when we get married
14 anyway, but that's the way that I approach that.

15 When I've been in pastoral care and
16 counseling of couples, I can think of one example of a
17 couple that are actual legally now in a domestic
18 partnership relationship. The issue is that one of the
19 people in that relationship thinks that that's married
20 and they are married because they're domestic partners.
21 The other person isn't sure, "Well, we're domestic
22 partners, and that's not quite marriage to me." It's
23 created some friction and tension in the relationship.
24 It's limited their ability to share expenses, for
25 instance. The reason that I bring that up is that

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1 indeed, if we were talking about marriage and they were

2 choosing to be in that relationship, they would know
3 what goes along with it, clearly.

4 When I counsel heterosexual couples, we talk
5 about what it's going to mean to be married. We don't
6 talk about well, first you get to be domestic partners
7 and then get you a civil union, then you get married.
8 None of that happens. We prepare people for being in a
9 marriage and everybody is clear, the husband and the
10 wife, the two partners are clear about what that's going
11 to mean.

12 What I still find in the couples that I
13 counsel who are considering civil unions or domestic
14 partnerships is a lot of confusion about what it is that
15 they're really going to be getting into if they achieve
16 this status. I encourage them to enter into civil
17 unions, but I would say in the third of the instances
18 people say, "I'm not sure. I think that I'm just going
19 to wait until the state decides what to do about this."

20 Many people have already done what Pastor
21 Kriesat and Mr. Mather have done, provided for the legal
22 protections. My partner and I did that in the first 22
23 years of our marriage in our relationship -- whoops, a
24 slip of the tongue. Again, it was costly, but we did it
25 and it was necessary, because there was nothing else

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1 there to protect us.

2 I find that people who are now getting into
3 a relationship and thinking about making a major
4 commitment to each other, they're not so sure that civil
5 union is the kind of path that they want to go down at
6 this point in time. In some cases, they would even
7 spend the money for legal advice to cover them and wait
8 for the day when the state will make up its mind about
9 calling this what it actually is. That's my two cents,
10 for what it's worth.

11 Frank, if it would be helpful about
12 Massachusetts from our church's experience and maybe it
13 might answer some of your questions from earlier,
14 interestingly enough in the State of Massachusetts where
15 marriage is legal for same-sex couples, the Lutheran
16 Church in that particular city that has jurisdiction in
17 that area passed a resolution that basically said, "Yes,
18 pastors in Massachusetts can marry same-sex couples,"
19 even though the Lutheran Church didn't have an official
20 position on that. It even suggested a ritual for states
21 that had civil unions. That was done about two years
22 ago, and marriages have been going on in Lutheran
23 congregations, presided over by Lutheran Pastors, with
24 the sanction and understanding of the Bishop in that
25 area.

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1 I'd like to say that it hasn't created a
2 problem for the Church. There have been people that, I
3 think, have left the Church over that issue and
4 transferred to another denomination. Generally
5 speaking, in the places where those marriages were going
6 on, the congregations were hardly affected at all,
7 particularly if it's somebody within that congregation's
8 membership.

9 On the positive note, you asked before about
10 whether or not the heterosexual marriages in
11 congregations were being undermined by people who were
12 in civil unions. My experience has been the opposite,
13 that a lot of times what happens to me, as someone in a
14 civil union relationship for 25 years, is that people
15 will say, "Wow, you really have endured a lot of
16 struggles. You did a lot of things that I never had to
17 do as a straight person. Marriage must really be
18 important. Talk to me about how that's important to you
19 and why do you want it? I just kind of sort of take it
20 for granted." In those conversations, I think that I
21 have probably enhanced a person's self-understanding of
22 their own marriage and their own appreciation of it.
23 That would be how I would respond to that question.

24 CO-CHAIRMAN BLUSTEIN-ORTMAN: Thank you.

25 Consider it asked and I'll consider it answered.

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1 Other questions?

2 CHAIRMAN VESPA-PAPALEO: I actually have

3 one. It was actually kind of interesting, I hadn't

4 thought about this issue, but you and some of your

5 predecessors mentioned the issue of Ministers having the

6 opportunity to either conduct -- officiate civil union

7 ceremonies or marriages in other jurisdictions. If you

8 were from a denomination of church or some other

9 organization that does sanction marriage or same-sex

10 couples, yet in this state, they're not legally

11 permitted to marry same-sex couples, do you view that as

12 an infringement on your organization's right to practice

13 your religion the way that you actually want to practice

14 your religion?

15 REV. DAVIDSON: Yes and no.

16 I'm not in a denomination that has come to

17 that point, yet. If I was in a denomination where --

18 you are, so maybe you could address that, but I would

19 feel a real dissonance there.

20 On the one hand, I would take it as a kind

21 of pastoral opportunity to talk about how the Church

22 understands marriage as something much more than a legal

23 contract and an institution that provides for stability

24 in society. I would talk about what faithfulness means
25 and living in a relationship of law differently, I
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1 think. Then I would go ahead and marry people, because
2 I would understand that I was marrying them as a clergy
3 person, but I would think that that would create real
4 confusion in terms of then how the couple would have to
5 explain what just happened to them to friends, family,
6 and others.

7 One thing that I have run into is that a lot
8 of people's resistance to civil unions does have to do
9 with them coming out to their families. I've heard
10 people say, "You know, I want to talk to my family about
11 this and about my relationship in a way that they'll
12 really get it. The only way that's going to make sense
13 to them is to say I'm going to marry this person," and
14 they're going to wait for that opportunity to happen.
15 That was a little more than you asked for.

16 CHAIRMAN VESPA-PAPALEO: It was very
17 helpful, thank you.

18 CO-CHAIRMAN BLUSTEIN-ORTMAN: Thank you,
19 thanks very much.

20 Is there anyone else that wishes to testify?

21 (No response.)

22 CO-CHAIRMAN BLUSTEIN-ORTMAN: Kevin and I

23 would like to entertain a motion to adjourn.

24 CHAIRMAN VESPA-PAPALEO: I had something.

25 If possible, what I would like to do is put

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1 on the record that I did extend, on behalf of the

2 Commission, written and telephonic invitations to

3 several organizations.

4 First is to Patrick Brannigan from the

5 Catholic Conference.

6 CO-CHAIRMAN TAYLOR: Sir, is that not on

7 record from our last meeting?

8 CHAIRMAN VESPA-PAPALEO: This occurred after

9 our last meeting. These are letters dated October 24th,

10 following the last meeting.

11 I just want to put on the record that on

12 October 24th I sent the letter -- a copy had been sent

13 to all of you as well, but just for the record, Patrick

14 Brannigan from the Catholic Conference, and he did

15 attend today. I spoke to him several times and

16 followed-up with information that he wanted.

17 I also sent an invitation in writing to Greg

18 Quinlan, who was identified as President of PFOX Ex-Gay

19 Association on October 24th by E-mail and regular mail

20 to his address in Virginia. It was apparently received,

21 because soon thereafter I received an E-mail from the

22 organization saying that Mr. Quinlan is no longer in
23 that position here in New Jersey and is somewhere in
24 California, and directing me to Mr. Lendeo for any
25 comment about Mr. Quinlan.

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1 I did contact Mr. Lendeo, who's President of
2 the New Jersey Family Policy Council, October 24th as
3 well. He was the only one that I was able to speak to
4 before I sent the letter, "I'm to send it to you, where
5 should I send it?" He agreed that he would come and
6 testify today, November 5, at 1 p.m.; however, just a
7 few days ago, I got a call from him that he was no
8 longer available at any time today, even if we had a
9 conference call available, because he was very, very
10 busy. Mr. Lendeo did testify previously, but anyway,
11 there was that invitation extended to him.

12 I also took that opportunity to ask Mr.
13 Lendeo for contact information for a fourth colleague,
14 John Tomicki, because his E-mail and phone address were
15 unable anywhere on the internet that we could find.
16 We're an investigatory agency, we could not find contact
17 information for Mr. Tomicki, who alleges on comments
18 that he represents 100,000 people -- families in the
19 State of New Jersey. There was no website
20 unfortunately, but Mr. Lendeo was kind enough to give me

21 his contact info which is jtomicki1@aol.com. He also
22 got the same letter. I have not heard from Mr. Tomicki,
23 no phone number, no mailing address, nothing, which is
24 curious, but that's an important thing for the record.
25 So we know that we did our best to invite as many
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1 individuals.

2 I also, when I spoke to Mr. Lendeo on
3 October 24th, I went a step further and asked him, "Are
4 there any other organizations or individuals that you
5 would like to identify for us to invite that maybe we're
6 missing?" He said, "I will absolutely get back to you
7 if there are any." He had my E-mail, phone number, cell
8 number included, and to date there have not been any
9 such names given to us.

10 CO-CHAIRMAN TAYLOR: Duly noted.

11 MS. ALLEN: Wasn't there supposed to be
12 somebody from the Division of Taxation testifying?

13 CO-CHAIRMAN TAYLOR: You missed that because
14 of the call. Maureen Adams was the first to
15 participate.

16 CHAIRMAN VESPA-PAPALEO: She said anyone who
17 missed anyone that was on the call does not have to pay
18 taxes next year. I'm sorry about that Barbara, you
19 missed a call, so you don't have to pay your taxes.

20 She did come, Ms. Adams. She's the Director
21 of Taxation. I sent her a letter as well. She showed
22 up.

23 MS. ALLEN: We have all the testimony, so
24 I'll read it later.

25 CO-CHAIRMAN BLUSTEIN-ORTMAN: Does someone
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1 move to adjourn?

2 MS. CASBAR-SIPERSTEIN: So moved.

3 MR. KOMOSINSKI: Moved.

4 CO-CHAIRMAN BLUSTEIN-ORTMAN: All those in
5 favor?

6 (All say I.)

7 CO-CHAIRMAN BLUSTEIN-ORTMAN: Opposed?

8 (No response.)

9 CO-CHAIRMAN BLUSTEIN-ORTMAN: Goodbye.

10 (Whereupon, the proceedings concluded at
11 approximately 4:18 p.m.)

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1 CERTIFICATE

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3 I, MOLLY HALLINAN, Shorthand Reporter,

4 certify that the foregoing is a true and accurate

5 transcript of the proceedings which were held at the

6 time, place, and on the date herein before set forth.

7 I further certify that I am neither attorney

8 nor counsel for, not related to or employed by any of

9 the parties to the action in which these proceedings

10 were taken; further, that I am not a relative or

11 employee of any attorney or counsel employed in this

12 case, nor am I financially interested in this action.

13

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16 MOLLY HALLINAN

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20 Shorthand Reporter

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